

**General Pharmaceutical Council**

**Fitness to Practise Committee**

**Principal Hearing Review**

Remote videolink hearing

**4 February 2025**

<b>Registrant name:</b>	Jason Davis
<b>Registration number:</b>	5010814
<b>Part of the register:</b>	Pharmacy Technician
<b>Type of Case:</b>	Misconduct
<b>Committee Members:</b>	Sarah Hamilton (Chair) Zena Uppal (Registrant member) Alison McVitty (Lay member)
<b>Secretary:</b>	Ivana Raimundova
<b>Registrant:</b>	Not present and not represented
<b>General Pharmaceutical Council:</b>	Represented by Louise Hartley Case Presenter
<b>Order being reviewed:</b>	Suspension (12 months)
<b>Fitness to practise:</b>	Impaired
<b>Outcome:</b>	Suspension (6 months)

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 12 March 2025 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.

1. This is a Principal Hearing Review in respect of Mr Jason Davis (“the Registrant”), a pharmacy technician registered with the General Pharmaceutical Council (“the Council”) with registration number 5010814.
2. At the Principal Hearing which finished on 9 February 2024 a Suspension Order was imposed on the Registrant for a period of 12 months, with a review of that order towards the end of the period of suspension. The Committee is here today to carry out that review.
3. The Registrant is not present at this hearing and is not represented. The Council is represented by Ms Hartley. The Committee has received and read a bundle of documents submitted by the Council running to 118 pages, and its statement of case and skeleton argument. The Committee also received a statement from the Registrant dated 25 January 2025 and two supporting documents. The Committee heard oral submissions from Ms Hartley.

#### **SERVICE OF DOCUMENTS AND PROCEEDING IN ABSENCE**

4. The Committee was satisfied that notice of this hearing had been sent on 7 January 2025 to the Registrant’s registered address, pursuant to Rule 16 of the General Pharmaceutical Council (Fitness to Practice and Disqualification etc. Rules) Order of Council 2010 (“the Rules”). The Notice contained the correct date for the hearing, and confirmed that it would be held remotely. The Committee was therefore satisfied that there had been proper service of the Notice of Hearing, and that it had been served 28 days in advance of the hearing.

5. Ms Hartley, on behalf of the Council, made an application to proceed in the absence of the Registrant pursuant to Rule 25. A decision to proceed in the absence of a registrant must be taken with the utmost care and caution. The Committee had regard to the criteria set out in *R v Jones [2002]* and the guidance in *GMC v Adeogba [2016]*. Ms Hartley submitted that the Registrant had voluntarily absented himself from today's hearing, and that it was in the public interest for the hearing to take place today.
  
6. On 23 January 2025 a case officer at the Council (MB) spoke to the Registrant on the telephone. The subsequent note prepared by MB after that call stated "*MB asked whether the PP would be able to attend the upcoming review hearing, scheduled to take place on 4 February 2025. The PP advised that he has no annual leave left to book and has asked the factory if he can take additional leave, but they haven't approved this.*" MB asked the Registrant to email the Council to outline the issue with attending the hearing due to work responsibilities, but the Registrant has not done so.
  
7. The Committee noted that the Registrant did not attend the Principal Hearing in February 2024, he has not asked for an adjournment, and there is no evidence before this Committee to indicate that the Registrant would attend on a later date if today's hearing were adjourned. The Committee also noted that the Registrant has stated that he wishes to be removed from the Register.
  
8. The Committee was guided by the case of *Adeogba* to consider whether there was a good reason to adjourn the hearing. It could find no such reason. The Registrant's current suspension order is due to expire shortly. The Committee therefore decided that it was in the public interest to proceed in the Registrant's absence today.

## PRELIMINARY MATTERS

### HEARING PARTIALLY IN PRIVATE

9. The Committee decided to hear any issues relating to the Registrant's health in private, in order to protect his privacy. The remainder of the hearing would be held in public.

## DETERMINATION ON CURRENT IMPAIRMENT

### BACKGROUND

10. The background to this case is helpfully set out in the Council's skeleton argument. The Amended Particulars of Allegation which were found proved at the Principal Hearing were as follows:

*"You, a pharmacy technician, and store manager, whilst working at Boots Pharmacy, 16 St Andrews Parade, Weston-Super-Mare, BS23 3SS ('the pharmacy')*

*1. Between February and March 2020, took an unknown amount of Co-codamol tablets twice a week from the pharmacy for personal use:*

*1.1. without permission and/or the consent of your employer*

*1.2. without a legally valid prescription*

*2 [Not proved]*

*3. Your actions at paragraphs 1 to 2 above were dishonest, in that you:*

*3.1. knew you did not have permission and/or consent of your employer*

*3.2. knew you needed a legally valid prescription in respect of co-codamol 30/500mg tablets. [PROVED in relation to the facts alleged and found*

*proved at Particular 1]*

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

11. By way of background, at the time of the allegations, the Registrant was a pharmacy technician and store manager at Boots Pharmacy in Weston-Super-Mare (“the Pharmacy”). A Fraud Analytics Team investigation, carried out in 2020, detected a stock loss of co-codamol tablets at the Pharmacy. The orders had significantly exceeded the number of co-codamol tablets being dispensed and the Registrant had been responsible for 80% of the manual orders of this medication. The Registrant attended an investigatory interview with the Fraud Analytics Team where he admitted that he had taken co-codamol for his own use. He said that he had been prescribed co-codamol in the past, but he had forgotten to re-order it, or was too busy working in the Pharmacy to get a GP appointment. He told Boots that he had intended to replace the co-codamol which he took from the shelves once he had obtained a prescription from his GP. His GP surgery had refused his written request to prescribe it, stating that he should *“discuss meds with gp as according to our system you have not had them in over a year thanks”*.
12. The Registrant resigned from Boots before their investigation was completed. He has not worked as a pharmacy technician since.

### **PRINCIPAL HEARING**

13. At the Principal Hearing on 7-9 February 2024 the Registrant did not attend. He had responded to questions posed by the Council, which were noted in a file note dated 9 December 2020, in respect of a telephone call with the Registrant on 8 December 2020. In summary, the Registrant confirmed he had taken medication *“about Feb-March 2020. I was going to replace them when I got the prescription from the GP...I took them twice a week in a 6 day working week”*. The Registrant explained that he worked long hours, was mentally and physically exhausted and the area in which the

Pharmacy was located brought with it some difficulties, e.g. slashed tyres and being spat on by members of the public. The Registrant stated he wanted to *“pay for what I’d taken, I have tried to call the Area Manager, but she will not pick up. I also sent a letter to the GPhC to inform them that I had resigned from Boots”*.

14. The Registrant confirmed that he had suffered **PRIVATE** and had been prescribed co-codamol. He stated *“I took it from the pharmacy because I was not in the right frame of mind. I know what I did was wrong I held my hands up to them (Boots).”* In response to being asked whether he was self-medicating, the Registrant explained *“I wouldn’t choose the word stealing, in my eyes I was borrowing them until I could get a prescription and then return them I suppose I would have got an extra prescription and not consumed as many and replace the ones I took from the pharmacy with the ones I didn’t take from the prescription I would have got...I wasn’t thinking that far ahead, I was just thinking I would get a prescription and replenish it.”* **PRIVATE**

15. On 29 April 2022, the Registrant provided a further written account to the Council. In this, he stated: *“I was working six days a week from 8 till gone 6pm and the surgery always asked to see you before releasing any prescriptions and this was impossible for me to do as I could not get any time off or leave the premises for this as most days it was just me and a pharmacist or rarely another staff member to help out. I had not had any holiday in the last 12 months and **PRIVATE**. What I did was done with no malice at all as I loved my job and the company I worked for and was going to be returned with the following prescriptions. The reason I have outlined all of the above is because it all had a part to play in my lack of professional judgement, it was an anomaly and a scary time to work in. It has impacted on my life immensely....I never had one complaint against me and I was always top in the area for my customer care.”*

16. At the Principal Hearing the Council called Witness 1 to give oral evidence. He was a Fraud Investigations Lead at Boots, and had provided two witness statements, analysing the data regarding the stock levels of co-codamol at the Pharmacy.

17. The Principal Hearing Committee took into account the data analysis provided by Witness 1, and his oral evidence. It also took into account the Registrant's comments in the investigatory interview with his employer which took place on 7 October 2020, and his subsequent admissions and explanation in the response statement which he sent to the Council on 29 April 2022. The Committee was of the view that the Registrant's responses, taken together with the evidence from Witness 1's data analysis connecting the Registrant's user ID to the manual entries ordering co-codamol (not supported by evidence of dispensing to patients at the relevant time), were sufficient to prove the stem of Particular 1 of the Allegation. The Registrant had admitted in his phone conversation with the Council's representative on 8 December 2020 that he had been taking the medication about twice a week. He said this occurred in February-March 2020. The Registrant clearly had no permission nor consent from his employer to take the co-codamol (Particular 1.1) and nor, as was apparent from the evidence of his contact with his GP on 2 July 2020, did he have a valid prescription (Particular 1.2). Particular 1 was therefore found proved in its entirety.

18. Particular 2 had alleged that *"Between January 2017 and September 2020, took approximately 23577 Cocodamol tablets to an approximate trade value of £1912.83 from the pharmacy for personal use:*

*2.1. without permission and/or the consent of your employer*

*2.2. without a legally valid prescription."*

19. The Committee observed that Particular 2 was not specific in relation to the dates alleged other than to state that they ranged from January 2017 to September 2020. The Committee noted that the data collected by Witness 1 in relation to the Registrant's Columbus ID being used to manually order co-codamol continued only into June 2020. The approximate amounts of medication taken and their value was reached by Witness 1 aggregating all of the unusual orders since November 2017. However, the Committee was of the view, having considered all of the evidence (including the Registrant's apparent admissions and uncertainty in relation to dates), that it could not conclude that it was more likely than not that the Registrant was

responsible for the discrepancies from 2017. Therefore it could not conclude that the Registrant was responsible for the missing approximate quantity and value of the medication as set out in Particular 2. Accordingly, the Committee found Particular 2 not proved.

20. The Committee also concluded, in relation to its findings of fact at Particular 1, that since the Registrant knew that he did not have permission nor a valid prescription to remove the medication, he must have known that he should not do so. It decided that he was, by the test set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*, dishonest when he took the co-codamol between February and March 2020, even if he intended, as he claimed, to return the medication at some date in the future. The Committee therefore found Particular 3 proved in relation to the facts alleged at Particular 1.

21. The Committee found that the proven facts amounted to serious misconduct. It decided that the Registrant had breached the following Council's Standards for Pharmacy Professionals (May 2017):

- **Standard 6: Pharmacy Professionals must behave in a professional manner:** This standard requires that pharmacy professionals are trustworthy and act with honesty and integrity. The Committee decided that the Registrant knew full well that the medication he took was one which required a prescription, and that he had demonstrated a complete lack of regard for the proper process for dispensing prescription-only medication, by dispensing it to himself for personal use without a prescription. The Registrant's GP had made it clear to him that there was no prescription in place for at least a year. but that did not deter the Registrant from taking the medications. Furthermore, he caused a loss to his employer, both financially and in terms of the medication as well.
- **Standard 8: Pharmacy Professionals must speak up when they have concerns or when things go wrong.** This standard requires a Pharmacy professional to "raise a concern, even when it is not easy to do so", "to promptly tell their employer and all



relevant authorities (including the Council) about concerns they may have” and to be “open and honest when things go wrong”. The Committee decided that the Registrant had displayed a flagrant disregard for this Standard. The Registrant should have raised concerns about his working environment constructively and meaningfully. Instead, he remained silent until after his employers noted a stock loss of Co-codamol and raised the matter with him.

22. The Committee decided that the Registrant’s fitness to practise was impaired by reason of his misconduct. The Committee considered Rule 5(2) of the General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010 (“the Rules”) which 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.”*

23. The Committee found that Rules 5(2) (b) – (d) were engaged in the circumstances of the case. In terms of remediation and insight, the Committee stated:

*“the facts found proved, particularly because they involve dishonesty, were not “easily remediable”. The Registrant’s principal job was to safeguard the unlawful dispensation of the very medication he stole for his own personal use. The discovery by Boots as to the stock loss of Co-codamol is the only reason the matter came to*

*light. The Committee took into account that the Registrant admitted that he had been taking Co-codamol for his own use, and that what he was doing was wrong, and, one might say, resigned from his employment because he understood the seriousness of what he had done. However, it accepted the submissions of Ms Khanna to the effect that there is no evidence that the Registrant has understood the wider impact of his conduct, for example, on patients who trust pharmacy professionals to manage and appropriately dispense medication. There is no insight into the dishonest conduct beyond mere acceptance that the Registrant should not have done as he did. The Registrant's focus appears to be on the impact his conduct has had on him personally. There is no evidence of remediation of his conduct before the Committee. In view of this, the Committee is concerned that there is a real risk of repetition of the same misconduct in the future."*

24. The Committee also considered that a finding of impairment was otherwise in the public interest in order to uphold standards and public confidence in the profession. The conduct took place in the course of the Registrant's work and was in breach of the most basic of expectations of professional conduct for a person in his privileged position, having access to medication which can be open to abuse and misuse if not supplied in accordance with a valid prescription. He was well aware that what he was doing would be unacceptable to members of his profession and the public if they were to hear of it.

25. The Committee then went on to consider what the appropriate and proportionate sanction should be. It identified the aggravating factors were as follows:

- *The Registrant's conduct took place in a Pharmacy where he had held a position of trust for a number of years;*
- *He was a store manager at the time of the medications were removed, i.e., in a position of responsibility;*
- *The Registrant did not disclose his conduct to his employer until the employer approached him.*

26. By way of mitigation, the Committee noted the following:

- *The Registrant made admissions to his employer in 2020*
- *The Registrant made admissions to the Council in 2020 and 2022*
- *There are no previous FTP matters recorded against the Registrant.*

27. In terms of sanction, the Committee referred to its finding that there was a real risk of the Registrant repeating his misconduct, because it had not been provided with evidence of remediation to satisfy it that there was no longer such a risk. It therefore considered that a warning would not sufficiently protect the public interest against the Registrant repeating his misconduct; and in any case a warning would not sufficiently mark the seriousness of his dishonest conduct.

28. The Committee decided that Conditions of Practice were not appropriate because it was not able to formulate conditions which would deal with the Registrant's misconduct which related to his responsibilities as gatekeeper of medicines and amounted to a flagrant disregard for his fundamental duty to prevent their diversion from legitimate supply. Furthermore, the need to uphold the public interest was too serious to be dealt with by conditions.

29. The Committee then went on to consider the next sanction available, and decided to impose a Suspension Order for the maximum period of 12 months. It made the following comments as to why it considered this sanction to be appropriate:

*“The Committee carefully weighed the seriousness of the Registrant's proven dishonesty with the mitigating factors in this case, as set out above. Whilst his dishonesty was serious and would have led to the NHS and his employer being out of pocket, the Committee appreciated that it did not appear that his primary intention*

*had been to defraud the NHS or his employer, and his proven conduct did not extend over a lengthy period of time. It appeared that he had begun taking the medication which had earlier been prescribed to him, and, according to his evidence, it was to deal with the effects of a serious health condition.*

*The Committee considered it regrettable that it had not been presented with any evidence of the Registrant's reflections on his conduct or other remediation, for example by way of training, or a reflective document outlining his understanding of what went wrong and the effect his conduct would have had on the public's confidence in his profession and on professional standards, and he had therefore not yet remediated it. Nevertheless, taking all of the evidence into consideration, the Committee was of the view that his misconduct, though difficult to remediate, was in principle remediable.*

*The Committee is satisfied that a period of suspension will enable the Registrant to reflect on his conduct and undertake remediation work. It decided that suspension for a period of 12 months will properly and sufficiently mark the seriousness of his misconduct, maintain confidence in the profession and uphold professional standards".*

30. Having concluded that a period of suspension would satisfactorily deal with the issues of public interest which it had identified, the Committee considered whether removal was in fact more appropriate. The Committee took into account that removal is to be reserved for the most serious failings. It was satisfied that, when all the facts of this case were properly weighed against the Registrant's right to practise in his chosen profession, and the public need for a pharmacy technician who could otherwise boast a long and unblemished career, removal would be disproportionately punitive at that stage.
31. The Committee ordered a review towards the end of the period of suspension, and stated that the reviewing Committee might be assisted by:

- *The Registrant’s attendance at the review hearing;*
- *Evidence of CPD undertaken during the period of suspension to maintain his skills;*
- *A reflective document demonstrating that he fully appreciates the seriousness of his conduct and its effect on the public interest;*
- *Any independent medical evidence;*
- *Any other documentation the Registrant considers will be helpful at that stage, for example testimonials in relation to his character or to paid or unpaid work.*

### **TODAY’S EVIDENCE**

32. For today’s hearing the Committee has seen a monitoring record from Milko Banev, a Case Administrator at the Council outlining the emails which had been sent to the Registrant. Mr Banev contacted the Registrant on 2 December 2024 in preparation for this hearing and reminded him of the evidence that may assist the Committee when determining whether he is currently impaired. The Registrant spoke to Mr Banev on the telephone on 23 January 2025 and the subsequent file note stated

*“He apologised for the delay in getting in touch, he is currently working 12 hour shifts in a factory and is struggling to find the time. Additionally, the PP advised that he currently resides **PRIVATE**. He asked if he could have his address changed on the Register. MB asked the PP to confirm if he has been compliant with his suspension. The PP confirmed that he hasn’t worked in pharmacy for over 4 years. He asked if there is a way he can remove himself from the Register. MB confirmed that the PP would need to fill out a form to apply for Voluntary Removal and that it would need to be reviewed and sent to the Chief Registrar for approval. MB asked whether the PP would be able to attend the upcoming review hearing, scheduled to take place on 4 February 2025. The PP advised that he has no annual leave left to book and has asked the factory if he can take additional leave, but they haven’t approved this. MB asked if the PP could email to confirm the following in writing*

- *His new address*
- *His compliance with his suspension*

- *His request to voluntarily remove himself from the Register*
- *His issue with attending the hearing due to work responsibilities*

*MB advised that he will then share this email with the relevant individuals at the GPhC”.*

33. The Registrant sent to the Council a one page statement dated 25 January 2025, so the day after that telephone conversation, which stated the following:

*“I just wanted to write this to accept the knowledge of what I did was completely wrong and that it has effected not only me but also the trust of my friends, colleagues and the reputation of the GPhC standards that is expected of it’s members. What I do want to say is it in now way done in any malice way and at the time I was not in a good head space. We were going through a world wide pandemic and being on the front line was a scary and unprecedented time. We had no PPE for the first 3 months and my children at this time was watching the news and worried that I wasn’t coming back each day. Every day there was a struggle to meet peoples needs as the local surgeries was not accepting any phone calls or walk-ins so we had to e-mail requests through by the minute and customers started to become irate with us when requests were not coming back. At this time we were very short staffed sometimes having only me and a pharmacist on site. Our store had the biggest drug service users in the area and I was often sworn at, abused and threatened by them if they didn’t get what they wanted quick enough or had to wait outside in the queue as we could only let one in at a time. On three occasions my car had been targeted having tyres punctured, mirrors broke off and my windscreen cracked.*

*If you are wondering if I have learnt from this this the answer is absolutely I have. After I resigned from Boots and the investigation started I lost everything **PRIVATE**. My favourite part of the job was always trying to help people and there was not a better feeling than having someone enter the shop in pain and upset and after having interacted with them in a compassionate way them leaving with a smile on their face. Being at the same shop for 30 years I was very well respected with peers, nurses, doctors and consultants from the local hospital and had a fantastic rapport with them*

*all. As the store manager I helped change the store into a friendly, welcoming and thriving pharmacy which I am proud to have played a big part in. At this time I also walked deliveries to vulnerable people within a 3 mile radius after work or in my lunch break. I have included two attachments in this email one I got from the Director of Boots praising me for the good work done and the other one was from an article in the local newspaper that I am really proud of. I was one of 58 frontline workers selected for a free family roast dinner which was voted for by the people of Weston. I was also presented with a signed football shirt as the number 1 superstar during the pandemic as over 500 people had voted for me to win it.”*

34. Ms Hartley confirmed that the Registrant has not applied for voluntary removal.

#### **COUNCIL'S SUBMISSIONS**

35. Ms Hartley reminded the Committee that the onus is on the Registrant to satisfy it that his fitness to practise is no longer impaired. Her skeleton argument reminded the Committee of the seriousness of the misconduct in this case. She submitted that although the Registrant has now provided a written statement, this concentrates on the impact these proceedings have had on him personally, as opposed to the public. She said that there is no evidence to suggest that the Registrant has stepped back and analysed what he did. Ms Hartley submitted that there is insufficient evidence to show that the Registrant's level of insight has improved and he has remediated his misconduct. Accordingly, the Council is concerned that the risk of repetition remains high. Ms Hartley also referred to the fact that the Registrant has asked if there is a way he can remove himself from the Register. She submitted that the Registrant's fitness to practise remains impaired.

#### **LEGISLATION AND CASE LAW**

36. The Committee's powers in relation to reviewing this suspension are contained in Article 54(3)(a) of the Pharmacy Order which provides:

*(a) where the entry in the Register of the person concerned is suspended, give a direction that –*

*(i) the entry be removed from the Register,*

*(ii) the suspension of the entry be extended for such further period not exceeding 12 months as may be specified in the direction, starting from the time when the period of suspension would otherwise expire,*

*(iii) the entry be suspended indefinitely, if the suspension has already been in force throughout a period of at least two years,*

*(iv) in the case of an indefinite suspension, terminate the suspension, provided that the review takes place in the circumstances provided for in paragraph (4), or*

*(v) on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the entry be conditional upon that person complying, during such period, not exceeding 3 years as may be specified in the direction as the Committee thinks fit to impose for the protection of the public or otherwise in the public interest or in the interests of the person concerned”.*

37. In the case of *Abrahaem v GMC [2008] EWHC 183 (Admin)*, Blake J said *“In practical terms there was 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 impairment....”*

38. Finally, the Committee has considered the *Good Decision Making: Fitness to Practise hearings and outcomes guidance (March 2024)* which states that at a review hearing *“The registrant is expected to provide evidence that any past impairment has been addressed.”*



## DECISION ON IMPAIRMENT

39. Today the Committee must first decide whether the Registrant's fitness to practise is still impaired, pursuant to Article 54(3) of the Pharmacy Order. Only if there is such a finding does the Committee go on to consider the range of options in terms of sanction.
40. The Committee has considered the case of *Abrahaem* referred to above, and in particular Blake J's comments regarding what the Registrant needs to show to persuade it that he has fully remediated and has addressed the finding of impairment at the previous hearing.
41. The Committee noted that prior to the submission of the Registrant's statement on 25 January 2025 there had been no meaningful engagement by him since the Principal Hearing, which he did not attend. He has not attended today, and has not submitted any documents to show that he has undertaken any CPD during his suspension, or any medical evidence.
42. However, the Registrant has now provided some evidence to show that he has reflected on the misconduct in his written statement, although the Committee agrees with Ms Hartley that this is insufficient to show that he has developed full insight. The statement is very brief, and although the Registrant acknowledges that "*what I did was completely wrong and that it has effected not only me but also the trust of my friends, colleagues and the reputation of the GPHC standards that is expected of it's members*", the majority of the statement deals with the impact on himself. He refers to the challenging circumstances during the pandemic, although the Committee noted that the misconduct, for the most part, took place prior to the first lockdown in the UK on 23 March 2020.
43. The Committee has therefore concluded that in the absence of sufficient evidence demonstrating that the Registrant now fully appreciates the seriousness of his

conduct and its effect on the public interest, there remains a risk of repetition. There is no evidence that he has developed sufficient insight into his misconduct. There is no evidence of remediation such as undertaking a course or providing a written reflection on the Council's standards, in particular the issue of dishonesty and ethics. If he had attended the hearing today, the Committee would have been able to hear from him, which may have assisted greatly. As it stands, the Registrant has not discharged his persuasive burden, and so his fitness to practise remains impaired.

### **DECISION ON SANCTION**

44. Having found impairment, the Committee went on to consider the matter of sanction. The Committee's powers are set out in Article 54(2) of the Order. The Committee should consider the available sanctions in ascending order from least restrictive, take no action, to most restrictive, removal from the register, in order to identify the appropriate and proportionate sanction that meets the circumstances of the case.
45. The purpose of the 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 therefore entitled to give greater weight to the public interest over the Registrant's interests.
46. The Committee took into account the *Good decision making: Fitness to practise hearings and outcomes guidance*, and the aggravating and mitigating factors identified by the Principal Hearing Committee.

### **COUNCIL'S SUBMISSIONS**

47. The Council submitted that it is unlikely that a further period of suspension would be of any value in this case, due to the Registrant's lack of engagement. The Council

therefore invited the Committee to consider exercising its power under Article 54(3)(a)(i) to remove the Registrant's name from the Register.

### **DECISION ON SANCTION**

48. The Committee noted that at the last hearing the previous Committee decided that 12 months' suspension "*will properly and sufficiently mark the seriousness of his misconduct, maintain confidence in the profession and uphold professional standards.*" Therefore, going forward the Committee decided that the public interest has already been sufficiently marked by the 12 month suspension order, and that when assessing any further sanction at this stage, the Committee should concentrate on the Registrant's own remediation, level of insight and the risk of repetition.
49. In light of the Committee's assessment regarding the risk of repetition and the Registrant's limited insight, it considers that taking no action or issuing a warning remain inappropriate sanctions, as they would not address the risk to the public.
50. As far as conditions are concerned, the Committee noted the guidance in the *Good decision making* document, which states that conditions are likely to be appropriate where "*There is evidence of poor performance, or significant shortcomings in a professional's practice, but the Committee is satisfied that the professional may respond positively to retraining and supervision*" and where "*There is not a significant risk posed to the public, and it is safe for the professional to return to practice but with restrictions.*" This is not a case where there was a clinical deficiency, but rather the concerns are attitudinal (i.e. dishonesty.) The Committee therefore considered that Conditions of Practice would not address this concern, and nor would they protect the public. In any event, the Registrant has not attended either hearing, so Conditions of Practice would not be appropriate.
51. The next sanction is a further period of suspension, up to a maximum of 12 months. The Committee agreed with the previous Committee that the Registrant's misconduct

is potentially remediable. Prior to receiving the Registrant's statement dated 25 January 2025, there was limited engagement by the Registrant (email and telephone calls), and nothing to suggest that he had taken the opportunity during his 12 months' suspension to develop his insight or undertake any remediation. However, the Committee considered that his witness statement does show signs of developing insight. The Committee was mindful that the Registrant is not represented, so he may not realise what a proper, detailed reflection looks like. He has commented briefly on the impact on his colleagues and friends, but does not deal with the impact on his patients. He has not sufficiently shown that he has analysed why the misconduct took place, and what steps he has in place to ensure there is no repetition in the future. The Committee does not have any medical evidence to show that any health condition is now being adequately managed.

52. Although the Registrant enquired as to whether there was a way for him to remove himself from the register, he has not applied for voluntary removal, and there is no clear indication in his statement that this is what he wants. Clearly he took great pride in his 30 year career at the Pharmacy and this is reflected in the supporting document he provided with his witness statement of 25 January 2025. Taking into account the "glimmer of hope" shown in his witness statement, the Committee decided that the Registrant should be given a further chance to provide evidence of insight and remediation, if he wishes to return to practice. The Committee has therefore decided that the proportionate outcome at this stage is a further period of suspension for six months. This will protect the public, as the Registrant will not be permitted to practise during this period.

53. The Committee wishes to make it clear to the Registrant that if he does not take any meaningful steps towards remediation and insight in the next six months, there is a high possibility of the next reviewing Committee deciding to remove his name from the register.

54. The Committee did look at the final available sanction, which is removal from the register. It took into account the Council's guidance regarding removal, which states that:

*“Removing a registrant’s registration is reserved for the most serious conduct... The Committee should consider this sanction when the registrant’s behaviour is fundamentally incompatible with being a registered professional.”*

55. The Committee acknowledged that the misconduct was not so serious as to be incompatible with remaining on the register. This is the first review of the suspension order, and the Committee decided that, on balance, removal at this stage would be disproportionate.

56. There will be a review of the Suspension Order towards the end of the six months. The Committee considers that the next reviewing Committee would be assisted by the Registrant providing the following:

- i) The Registrant’s attendance at the review hearing;
- ii) Evidence of CPD undertaken during the period of suspension to maintain his skills;
- iii) A reflective document demonstrating the reasons for his misconduct, the steps he has taken to ensure there will be no repetition, that he fully appreciates the seriousness of his conduct and its effect on patients and the public interest;
- iv) Any independent medical evidence;
- v) Any other documentation that the Registrant considers will be helpful at that stage, for example testimonials in relation to his character or to paid or unpaid work

### **INTERIM MEASURES**

57. Ms Hartley then made an application for an interim measure of suspension to be imposed on the Registrant’s registration, to take effect from today’s date, pending

the coming into force of the Committee's substantive order. She submitted that this was necessary on the grounds of public protection and public interest.

58. The Committee took account of the fact that the current suspension order will expire on 12 March 2025. The new six month suspension order will not take effect until 28 days after the Registrant is formally notified of this outcome, or until any appeal is concluded. Therefore if the Registrant does appeal, there would be a period where he would be free to practise unrestricted (after 12 March 2025).

59. This is a case where the Committee has decided that there remains a risk of repetition and risk to the public. The Committee is satisfied that it is therefore appropriate for an interim measure to be in place prior to the taking effect of the new substantive order, pursuant to Article 60 of the Pharmacy Order 2010, both on the grounds of public protection and public interest.

60. The Committee therefore orders that the entry of the Registrant in the register be suspended forthwith, pending the coming into force of the new substantive order.