

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Remote videolink hearing

Date 09-10 April 2025

Registrant name: Stephen James Fleck

Registration number: 2073109

Part of the register: Pharmacist

Type of Case: Conviction

Committee Members: Gerry Wareham (Chair)

Oliver Jones (Registrant member)

Jo Bower (Lay member)

Clinical Advisor: Dr Sabarigirivasan Muthukrishnan

Committee Secretary: Ivana Raimundova

Registrant: Present, Represented by Paul Summerfield,

General Pharmaceutical Council: Represented by Gareth Thomas, Case Presenter

Facts proved: 1 (a) and (b)

Facts proved by admission: 1 (a) and (b)

Facts not proved: N/A

Fitness to practise:	Impaired
Outcome:	Removal
Interim measures:	Interim suspension Order

This decision including any finding of facts, impairment and sanction is an appealable decision under *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010*. Therefore, this decision will not take effect until **09 May 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.

Particulars of Allegation

You, a registered Pharmacist,

On 2 May 2024 at Weymouth Magistrates' Court were convicted of:

- (a) *Theft (by employee)*
- (b) *Forgery (making false prescriptions)*

And your fitness to practise is impaired by reason of your conviction.

Documentation

Document 1- Council's hearing bundle

Document 2- Council's skeleton argument

Document 3- Registrant's bundle

Document 4- Rule 18(5) bundle

Document 5- Council's supplementary bundle

Document 6- Correspondence from Registrant's probation officer

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 determines whether, on the facts as proved, a statutory ground for impairment is established and, if so, whether the Registrant's fitness to practise is currently impaired.
 - Stage 3. Sanction – the Committee considers what, if any, sanction should be applied if the Registrant's fitness to practise is found to be impaired.

Conflict of Interests

6. Mr Thomas made known to the hearing that he and Ms Bower worked at the same law firm for a period. Mr Summerfield made no representations on the matter. Also, Mr Jones made known he had delivered PCPEP training as an Educational Supervisor for the body which provided the training which Mr Fleck attended. He could not say whether Mr Fleck was on a course he led. He also made the hearing aware that 'EM', who had provided a testimonial statement on behalf of Mr Fleck, was a family friend, though he had not met for around 7 years. No objections were taken to any of these matters by the parties. The Tribunal was satisfied, applying

the test in *Porter and Magill*, that a fair-minded observer considering these matters would conclude that they did not raise the possibility of bias.

Service of Notice of Hearing

7. The Committee has seen an email dated 11 March 2025 from the Council headed 'Notice of Hearing' addressed to the Registrant and sent to their registered email address as noted on the Register.
8. The Committee was satisfied that there had been good service of the Notice of Hearing ('Notice') in accordance with Rules 3 and 16 of the Rules.

Application for the hearing to be held in Private

9. The Committee was informed by Mr Summerfield that an application would be made at later stages of the hearing to hold parts of the hearing in private under Rule 39(3) as they related to the Registrant's health and/or private life. The Committee agreed that those sections of the hearing where the registrant's health and private life was discussed would be heard in private session.

Application to admit further evidence

10. Mr Summerfield for the Registrant made an application that his bundle of evidence served pursuant to Rule 18(5) be admitted although it was slightly late. He explained the reasons for the late service.
11. Mr Thomas for the GPhC made no objection, noting the relevance of the material and the potential prejudice should it be excluded.
12. The Committee had already had sight of this material and agreed it should be admitted.

Registrant's response to Particulars of Allegation

13. The Registrant admitted all particulars of the Allegation.
14. In the light of the above, and by the application of Rule 31(6) of the Rules, the admitted factual particulars were found proved. The Committee went on to consider whether the Registrant's fitness to practise is currently impaired which is a matter for the Committee's judgement.

Background

15. The Registrant was employed as Senior Clinical Pharmacist within NHS Dorset Integrated Care Board and the Dorset Healthcare University NHS Foundation Trust.
16. During the course of his employment he was required to conduct medication reviews. During one such review a patient handed to his care excess drugs which the Registrant accepts he should have sent for destruction. These drugs included dihydrocodeine. **PRIVATE**. Instead of returning the drugs he kept them **PRIVATE**.
17. Subsequent to this, the Registrant created a total of 16 handwritten prescription forms, and forged the doctor's signature prior to them going to different pharmacies in the area and receiving that medication. He also generated 43 prescription requests using the electronic prescription system and changed the nominated pharmacy, and again collected the medication.
18. These actions involved unauthorised search and use of patient personal data and falsification of patient records. He stated that he searched the practice clinical system to identify suitable patients where the prescriptions would be less likely to rouse suspicions. He picked the patients he was to fraudulently claim for who were over 60, did not pay for their prescriptions, and who were already receiving

dihydrocodeine. The total cost of all the prescriptions accepted by him as being created or generated fraudulently was £785.45.

19. Suspicions were aroused and investigations led to the Registrant being confronted and he was suspended from professional practice on 26 September 2023. He co-operated with professional and police enquiries and fully admitted his involvement. He was charged with the criminal matters subject of the Allegation and pleaded guilty at the Magistrates Court at the first opportunity. The matter was committed to the Crown Court for sentence. On 2 May 2024 the Registrant was sentenced to a period of imprisonment of 44 weeks suspended for 2 years, required to complete 250 hours of unpaid work and to pay costs.
20. It was noted by the Court that **PRIVATE** had been a significant factor in the criminal behaviour. The sentencing Judge also commented that there had been a “breach of a high degree of trust as a pharmacist, and also ... some significant planning by the use of prescriptions ... not only to obtain the drugs, but also to hide [the criminality].”

Decision on Facts

21. The Allegation in this case is a conviction. The Committee had sight of the memorandum of conviction dated 31 May 2024, including evidence from the sentencing hearing and further details of the offending behaviour in the employer Trust’s investigation report. Furthermore, the Registrant has admitted all aspects of the Allegation and therefore found the facts proved in accordance with Rule 24(4).

Conviction and Impairment

22. Having found the particulars of the Allegation proved, the Committee went on to consider whether the Registrant’s fitness to practise is currently impaired by reason of their conviction.

23. 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 reads:

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

24. The Committee took into account the submissions made by Mr Thomas and Mr Summerfield. It also heard evidence from the Registrant, Mr Fleck.
25. Mr Thomas submitted that current impairment was established within the guidelines as approved in *High Court in CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. This was a matter brought by way of conviction, although it was accepted that health played a major role in consideration of the issues. He submitted that all 4 limbs of Rule 5(2) were engaged.
26. Mr Thomas submitted that though there was no evidence of actual harm being caused there were clear indications that patients were put at risk as their medical records were falsified to assist and hide the Registrant’s dishonest actions. This was a serious breach of trust and the fundamental principles of the profession such that it brought the profession into disrepute and showed that the Registrant’s integrity could no longer be relied upon. He submitted that the public would be horrified at the abuse of trust inherent in the Registrant’s actions, which were sustained for 9 months. This was exacerbated by the fact that the Registrant had previously been before the Committee for similar matters.
27. The Registrant accepted through Mr Summerfield, in oral evidence and in their written submissions that their actions amounted to misconduct and that their fitness to practise is currently impaired. However, he reminded the Committee that it was still a matter for them to determine the issue.

28. Mr Summerfield referred the Committee to the evidence it heard on oath from Mr Fleck. He had accepted the significance of his convictions and the 'backdrop' to them. That is why he conceded his fitness to practise is currently impaired. This was evidence of his insight. In his oral evidence and in the bundles provided to the Committee, the Registrant further demonstrated his considerable insight **PRIVATE**.
29. Mr Summerfield submitted that Mr Fleck had provided strong evidence of the steps he had taken **PRIVATE**. There was strong testimony from professional individuals **PRIVATE**. Mr Fleck had personally stressed his remorse and shame and this too was evidenced in the written evidence provided.
30. The Committee accepted the advice of Clinical Adviser. **PRIVATE**.

Decision on misconduct

31. When considering whether the particulars found proved amounted to misconduct the Committee took into account the *Good decision making: Fitness to practise hearings and outcomes guidance* as revised March 2024.
32. The Committee considered whether the Registrant had breached any of the Council's Standards for Pharmacy Professionals (May 2017). The Committee determined that there had been a breach of the Standards:
 - a. Standard 1- the unauthorised access to patient personal data was a breach of respect for and safeguarding of their personal dignity;
 - b. Standard 2- there was potential risk to safe and effective care of patients through the falsification of their records;
 - c. Standard 5- the Registrant lacked judgement by putting his personal desires ahead of the concerns and best interests of the patients, and had practised when not fit to do so;
 - d. Standard 6- the Registrant had failed to act with honesty and integrity;

- e. Standard 7- the unauthorised access to and use of personal private data was a breach of the requirement to maintain and respect patient's privacy and confidentiality;
 - f. Standard 8- the offending conduct was maintained over a sustained period despite opportunities for the Registrant to inform relevant authorities and seek assistance;
 - g. Standard 9- the Registrant was in a senior position and managerial role and his actions were a poor example to others.
33. The Committee bore in mind that the Standards may be taken into account when considering the issues of grounds and impairment but that a breach of the Standards does not automatically result in a finding of misconduct (Rule 24(11) of the Rules).
34. The Committee considered the full background to the Registrant's convictions. **PRIVATE** but constituted breaches of many of the Standards, some more significant than others. Central to the behaviour in question was a basic breach of the fundamental trust owed to patients and a lack of professional integrity. Although there had been no evidence of any actual harm being caused, the Registrant in his oral evidence conceded that there was a risk of such harm occurring, and such risks were identified in the employer Trust's investigation report. The Registrant's actions brought the profession into disrepute. For these reasons the Committee was satisfied that the particulars of the Allegation amounted to misconduct.

Decision on Impairment

35. Having found that the particulars of allegation amounted to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired. The Committee noted that a conviction for a criminal offence is a ground of impairment provided for by Article 51(1)(e) of the Pharmacy Order 2010. Due to the seriousness of the misconduct, the Committee determined that Article 51(1)(e) is engaged in this case.

36. The Committee also considered Rule 5(2), namely whether the particulars found proved show that actions / 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.*
37. The Committee determined that all four elements of Rule 5(2) were engaged by the conduct of the Registrant for the reasons set out below.
38. The Committee determined that the Registrant presented a risk to patients and the public. There was clear evidence from the Registrant that **PRIVATE** his judgement was impaired or suspended. He accepted that his actions had presented a potential risk of harm to patients. The Committee accepted that he had developed considerable insight **PRIVATE** and noted his strong expressions of remorse and regret. The Committee recognised and commended the steps he had taken and continues to take **PRIVATE**.
39. However, the Committee also noted that the Registrant had previously appeared before a Fitness to Practise Committee and the criminal court for similar matters, including theft and fraud, and had repeated the misconduct. It noted the advice of the Clinical Advisor **PRIVATE**, which the Registrant had also stated he acknowledged. The Committee therefore determined that there remained a risk of repetition of the misconduct which could present a risk of harm to the public.
40. Having determined that there remained a risk of the Registrant repeating the form of misconduct which had led to his previous criminal convictions, which had on both occasions incorporated serious dishonesty, the Committee determined that the integrity of the Registrant can no longer be relied upon.
41. The Committee also determined that the nature of the misconduct, the criminal convictions and sentence, was of such a nature that a finding of impairment was

also required to maintain professional standards and uphold public confidence in the profession. The Committee determined that the actions of the Registrant were such that they would bring the profession into disrepute and would be considered deplorable by fellow practitioners. Those actions subject to the conviction involved fundamental breaches of trust and of the standards for the pharmacy profession. They also presented a real risk to the public. In his oral evidence the Registrant acknowledged this, stating that he was *'so relieved'* that his actions *'led to no actual harm, so far as I know'*.

42. The Committee therefore finds the Registrant's current fitness to practise to be impaired on public protection and public interest grounds and accordingly went on to consider the issue of sanction.

Decision on Sanction

43. Having found impairment, the Committee has gone 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.
44. The purpose of the sanction is not to be punitive, though 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.
45. The Committee had regard to the Council's *'Good decision making: Fitness to practise hearings and sanctions guidance'* to inform its decision.
46. The Committee took into account the submissions made by Mr Thomas for the Council and Mr Summerfield on behalf of the Registrant. The Committee also heard

from Dr Muthukrishnan, the Clinical Advisor, who confirmed the advice he had given at the impairment stage.

47. The Committee first considered what, if any, aggravating and mitigating factors there may be.
48. The Committee identified some aggravating factors, including:
 - a. The behaviour involved significant dishonesty which was sustained for a period of around 9 months;
 - b. There was a degree of planning and sophistication involving forging and falsely creating prescriptions to divert controlled drugs **PRIVATE**;
 - c. Although no direct harm to others has been identified the Committee finds and the Registrant concedes that this was a risk inherent in the misconduct;
 - d. There was a high degree of breach of trust, including the misuse of patient personal data, **PRIVATE**;
 - e. The previous regulatory finding and conviction for very similar matters raised the concern of risk of repetition.
49. The Committee identified some mitigating features including:
 - a. **PRIVATE**;
 - b. The Registrant accepted responsibility for his actions at the first opportunity, co-operated with investigations and pleaded guilty at first appearance at court and has engaged with this regulatory hearing;
 - c. **PRIVATE**. The Committee did find that there was less evidence of developed insight as regards the dishonesty, breach of trust, and the effect on patients, colleagues and the public;
 - d. The Committee noted the strong testimonial evidence in support of the Registrant.
50. **PRIVATE**.

51. To take no action. The committee determined that the Registrant presented a current risk to patients. **PRIVATE.** The Committee also determined that the misconduct involved serious breach of trust, significant breaches of professional standards and sustained dishonesty on a professional setting. These factors meant that taking no action would not be a proportionate response and would not adequately mark the need to maintain public confidence in the profession and proper standards of behaviour.
52. Warning. For the reasons set out above the Committee did not find that a warning would be a proportionate or adequate response.
53. Conditions of Registration. The Committee next considered the imposition of conditions of registration. A conditions of registration Order would allow the Registrant to practise albeit with restrictions. The Committee must determine whether a conditions of registration Order would be appropriate given the concerns identified regarding the Registrant's practice, in particular whether conditions would protect the public from harm, be sufficient to mark the seriousness of the matter so as to maintain public confidence in the Registrant, the profession and the regulator, and sufficient to promote professional standards within the profession.
54. If conditions are to be imposed, the conditions must be relevant and proportionate to the concerns identified regarding the Registrant's practice. Conditions must be workable and susceptible to being monitored. The Committee must also be satisfied that the Registrant will comply with any conditions imposed.
55. The Committee found that the Registrant was a current risk to the public if allowed to return to immediate practice. It could not identify conditions which would allow him to practise in a way which would adequately mitigate those concerns. It noted that the Registrant did not believe that conditional registration was an appropriate outcome at this stage. The Committee also determined that an order of conditions would not adequately reflect the seriousness of the misconduct so as to maintain public confidence and professional standards.

56. Suspension. The Committee next considered whether suspension would be a proportionate sanction. The Committee noted the Council's guidance which indicates that suspension may be appropriate where:

"The Committee considers that a warning or conditions are insufficient to deal with any risk to patient safety or to protect the public, or would undermine public confidence. It may be required when necessary to highlight to the profession and to the public that the conduct of the registrant is unacceptable and unbecoming a member of the pharmacy profession. Also, when public confidence in the profession demands no lesser sanction."

57. The Committee noted the representations of Mr Summerfield as regards the suitability of suspension. **PRIVATE**.
58. Whilst the Committee acknowledged and applauded the efforts taken by the Registrant it did not find that these sufficiently mitigated its concerns regarding the risk of repetition and the attendant risk to the public. This was the second time the Registrant had offended criminally, within his professional environment, **PRIVATE**.
59. The Committee did not find that the Registrant's insight was fully developed as regards the dishonesty. **PRIVATE**.
60. The Committee also felt that in circumstances where there were such egregious breaches of the professional standards, sustained dishonesty, breaches of trust as regards patients welfare and privacy, suspension would not adequately reflect the seriousness of the misconduct so as to maintain public confidence and professional standards.
61. The Committee had regard to the Council's guidance and in particular Paragraph 6.9:
- "Some acts of dishonesty are so serious that the committee should consider removal as the only proportionate and appropriate sanction. This includes allegations that involve intentionally defrauding the NHS or an employer, falsifying patient records, or dishonesty in clinical drug trials."*

62. For these reasons the Committee did not find that suspension was an adequate or proportionate response.
63. Removal. Given the above conclusions, and taking account of the seriousness of the matter, the Committee concluded that the appropriate and proportionate sanction was removal. The Committee took particular account of the following:
- a. The risk of harm: the Committee determined that there remained a real risk of relapse and thereby of harm to the public. **PRIVATE**;
 - b. The Committee found there was a real risk of similar misconduct **PRIVATE**. It noted the previous Regulatory matter which was of a very similar nature;
 - c. The misconduct was extremely serious involving sustained and sophisticated dishonesty, and offended against the care, trust and privacy of patients;
 - d. The seriousness of the matter was such that irrespective of any concerns regarding the Registrant and the risk he presented, his continued registration was incompatible with the need to maintain public confidence and professional standards.
64. The Committee therefore directs that the Registrar remove the Registrant from the professional register.

Interim Order

65. The existing Interim Order is hereby revoked.

Decision on Interim Measure

66. That the Committee's substantive decision will not take effect until 28 days after notice of this decision has been sent, or until any appeal has been finally disposed of.
67. The Committee took account of the Council's guidance of March 2024.

68. Having heard submissions regarding interim measures, the Committee is satisfied that it is necessary to impose an interim measure of immediate suspension for the protection of members of the public, to safeguard the public interest, and protect the interest of the Registrant. This reflects the Committee's concern that **PRIVATE** there is an associated risk of repetition, which would be exacerbated if he were to return to a professional environment.
69. This concludes the determination.