

General Pharmaceutical Council

Fitness to Practise Committee

Principal hearing

Remote videolink hearing

5 – 12 October 2026

Registrant name: Matthew Cook

Registration number: 2232309

Part of the register: Pharmacist

Type of Case: Misconduct

Committee Members: Hilary Lloyd (Chair)

Joanne Hird (Lay member)

Esosa Osakue (Registrant member)

Committee Secretary: Francesca Viney (5 - 7, 9 - 12 October 2026)

Chloe Butler (8 October 2026)

General Pharmaceutical Council: Represented by Sian Priory, Counsel, Case Presenter

Registrant: Not present and unrepresented

Facts proved: 1, 3 and 7 (to the extent Particular number 7 is connected with Particular number 1)

Facts proved by admission: 9, 10, 11, 11.1, 11.2, 11.3, 11.4 and 11.5

Facts not proved: 2, 2.1, 2.2, 4, 5, 6 and 8

Fitness to practise: Impaired

Outcome: Removal from the Register

Interim measure: 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 9 November 2026** or, if an appeal is lodged, once that appeal has been concluded. However, the interim suspension set out in the decision take/s effect immediately and will lapse when the decision takes effect or once any appeal is concluded.

Documentation

- Document A: Case bundle (85 pages)
- Document B: Council's Statement of Case (21 pages)
- Document C: Proof of Service bundle (13 pages)
- Document D: Proceeding in Absence bundle (19 pages)
- Document E: Adjournment Application – Council's skeleton argument and annex (37 pages)
- Document F: Special Measures Application – Council's skeleton argument and appendix (12 pages)
- Document G: Hearsay application (Patient A) – witness statement of EF and exhibits (14 pages)
- Document H: Registrant's admissions (listing questionnaire and covering email) (10 pages)

Live witnesses

- GG gave evidence at the fact-finding stage

DETERMINATION

Introduction

1. Matthew Cook ("the Registrant"), is a Pharmacist first registered with the General Pharmaceutical Council ("the Council") under registration number 2232309.
2. The hearing was 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 of these regulatory proceedings are:
 - To protect, promote and maintain the health, safety and well-being of the public;
 - 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.

4. The Committee had regard to the guidance contained in the Council's *"Good decision making: Fitness to practise hearings and outcomes guidance, revised March 2024"* ("the Outcomes Guidance").
5. In accordance with Rule 31, a principal hearing is composed of up to three stages:
 - Stage 1: Findings of Fact – the Committee determines any disputed facts;
 - Stage 2: Findings of ground(s) of 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; and
 - 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.
6. The Particulars of the Allegation are as follows:

You, a registered pharmacist, whilst employed as a locum pharmacist between January and March 2025 at PRIVATE ('the Pharmacy'):

1. On one or more unknown dates, dispensed to Patient A approximately 65 ml more than her prescribed dose of methadone.

2. On one or more unknown dates, dispensed to Patient A all or some of the following medicines in unknown quantities, without having in place a valid prescription:

2.1 Pregabalin

2.2 Diazepam

3. On one or more occasions, failed to accurately record the amounts of Methadone that you dispensed to Patient A.

4. On an unknown date, provided Patient A with the names of two other patients who were prescribed methadone

5. Your actions at paragraph 4 above were a breach of patient confidentiality.

6. On an unknown date, dispensed to Patient B, approximately 80ml methadone instead of his prescribed dose of 25 ml.

7. Your actions in paragraphs 1, 2, and/or 6 were deliberate and/or were done with a reckless disregard to the harm that they could cause.

8. On one or more occasions, used illegal drugs including cocaine and / or crack cocaine in the presence of Patient A.

9. On 4 March 2025, dispensed to Patient C 28 Amlodipine 10mg instead of the prescribed Amitriptyline 10mg.

10. On 5 March 2025, put one patient's medication in the bag for another, different patient.

11. You attended work whilst unfit to do so and/or behaved in an erratic and/or unprofessional manner including:

11.1. On 7 March 2025 had slurred speech and jittery movements

11.2. On 10 March 2025 called one or more colleagues a “Rich Bitch” and/or a “snitch” and/or stated you would give them a piece of your mind, or words to that effect

11.3. On an unknown date said to a colleague with reference to paracetamol “shall we crush them up and snort them off the worktop?”, or words to that effect

11.4. On an unknown date, were unsteady on your feet and/or unfit to work

11.5. On one or more unknown dates, fell asleep during work

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

7. The Committee was provided with a bundle of documentary material which included, but was not limited to:

- Document A: Case bundle (85 pages)
- Document B: Council’s Statement of Case (21 pages)
- Document C: Proof of Service bundle (13 pages)
- Document D: Proceeding in Absence bundle (19 pages)
- Document E: Adjournment Application – Council’s skeleton argument and annex (37 pages)
- Document F: Special Measures Application – Council’s skeleton argument and appendix (12 pages)
- Document G: Hearsay application (Patient A) – witness statement of EF and exhibits (14 pages)
- Document H: Registrant’s admissions (listing questionnaire and covering email) (10 pages)

Service of Notice of Hearing

8. The Committee had seen an email dated 25 August 2026 from the Council headed ‘Notice of Hearing’ (‘the Notice’) addressed to the Registrant and sent to them via their email address as noted on the Register.
9. The Committee noted that this was more than the 28 days required by Rule 16. The Committee saw the entry on the Register where the Registrant had been marked as saying ‘yes’ to receiving important communications via email and noted that he had replied to emailed correspondence. The Committee considered that the Registrant had agreed to receiving correspondence via email.
10. The Committee was therefore satisfied that there had been good service of the Notice in accordance with Rules 3 and 16.

Preliminary applications

Application by the Council to proceed in the Registrant's absence

11. The Registrant was not present before the Committee on 5 October 2026, being day 1 of the principal hearing.
12. Counsel on behalf of the Council, made an application to proceed in the Registrant's absence in accordance with Rule 25. Counsel referred to the Notice of Hearing dated 25 August 2026.
13. Counsel informed the Committee that the Registrant had previously expressed a preference for the principal hearing dates set in this case and that this was, in fairness to the Registrant, accommodated by the Council.
14. Counsel further informed the Committee that an application for an adjournment of the principal hearing was received by the Council on 17 September 2026. Given this, Counsel stated that the Registrant was clearly aware of the principal hearing dates.
15. Counsel briefly referred to a case management meeting that took place on 30 September 2026 to deal with a number of preliminary applications concerned with this case, including consideration of the Registrant's adjournment application. The Registrant did not attend that meeting as scheduled but had indicated by email during the morning of 30 September 2026 that he could appear before the Committee that afternoon. The scheduled meeting was thus stood over to 2:00pm that afternoon to allow the Registrant to attend. The Registrant did not attend and the adjournment application was not heard on that occasion.
16. Counsel submitted that in light of the above, the Registrant had voluntarily absented himself from the proceedings. Counsel further submitted that an adjournment of the proceedings would be unlikely to secure the Registrant's attendance given the Registrant's non-appearance at the case management meeting on 30 September 2026.
17. The Committee was provided with legal advice from the Legal Adviser.
18. The Committee was advised to consider Rule 25. This states:

Absence of the person concerned

25. Where the person concerned is neither present nor represented at any hearing and the Committee is satisfied that—

*(a) service of the Notice of Hearing or the Interim Order Notice has been properly effected; or
(b) all reasonable efforts have been made to serve the person concerned with the Notice of Hearing or the Interim Order Notice,*

the Committee may nevertheless proceed to consider and determine the matter or allegation.

19. The Committee was advised to adopt a two-stage approach. The Committee's first consideration was to look at the documents that the Council had sent to the Registrant's email address. The second consideration was whether the Committee was satisfied the Registrant has been served in accordance with Rule 3 and Rule 16, or that all reasonable efforts had been

made to serve the Registrant. The Committee was advised to exercise caution in the way its discretion was exercised to proceed in the Registrant's absence.

20. The Committee was also referred to the case of *Adeogba v General Medical Council* [2016] EWCA Civ 162, where the Court of Appeal emphasised that fairness to the practitioner is important but that fairness is not a one-sided exercise. The Committee was advised that there was a strong public interest in the efficient and expeditious disposal of fitness to practise allegations that arises from the Committee's statutory duties which involve the protection of the public. The Committee was advised to consider any reason for the Registrant's absence, including whether the absence appears voluntary, deliberate or due to circumstances outside the Registrant's control.
21. The Committee was further advised to ask itself whether the Registrant has engaged with the Council and whether the Registrant had requested an adjournment or not and if he had provided any supporting material regarding that. Further the Committee was advised to consider whether any adjournment of the proceedings could secure the Registrant's attendance at a future date. The Committee was also advised in the exercise of its discretion to weigh any prejudice and the extent of any unfairness to the Registrant if the hearing proceeded, against prejudice to the Council, the witnesses and the public interest if it does not.
22. The Committee accepted the legal advice of the Legal Adviser.
23. As mentioned above, the Committee was satisfied that the Notice of Hearing had been properly served in accordance with Rule 3 and Rule 16. The Committee then considered whether to proceed in the absence of the Registrant. The Committee took into account the fact that the Registrant did not appear before the case management meeting that had been held on 30 September 2026, even after the meeting being rearranged to the afternoon to accommodate the Registrant. The Committee noted that the Council had contacted the Registrant by email to inform him that his application for an adjournment would be considered at the outset of the proceedings on 5 October 2026, and that he had been provided with a link to join the proceedings. In view of this, the Committee that the Registrant had voluntarily absented himself from the proceedings.
24. The Committee also took into account its statutory obligations and considered the fairness of proceeding in the Registrant's absence. Given the Registrant's lack of attendance at the case management meeting on 30 September 2026, the Committee considered that an adjournment would be unlikely to secure the Registrant's attendance.
25. The Committee also took into account that the Council had witnesses scheduled to give evidence and that a postponement would likely cause inconvenience and significant delay in the expeditious disposal of the matter. In considering all of the above factors, the Committee was satisfied that it could proceed in the Registrant's absence.

Application by the Registrant to adjourn the principal hearing

26. Counsel on behalf of the Council, informed the Committee that the Registrant had made an application to adjourn the principal hearing. Counsel informed the Committee that the Registrant's application had been made by email to the Council on 17 September 2026 in the following terms:

Hi Evie,

I am writing to you to request a postponed date for my upcoming GPhC hearing of approximately a couple of months. This is due to me currently getting together funds for a new legal firm to represent me during this case. This is due to the financial constraints surrounding being unable to work.

KR

Matthew Cook

27. As mentioned above, Counsel stated that a case management meeting had been scheduled for the morning of 30 September 2026 to consider, amongst a number of matters, the Registrant's application for an adjournment. Counsel explained that the Registrant did not appear during the morning of the case management meeting but had communicated by email to the Council that morning that he would appear before the Committee that afternoon. The Registrant did not appear. The application to adjourn was therefore stood over to be heard on day 1 of the principal hearing.
28. Counsel stated that the application to adjourn was opposed by the Council. Counsel referred the Committee to their skeleton argument which set out detailed reasons for the application being opposed. Excerpts below of the salient points from Counsel's skeleton argument:

This application is opposed by the GPhC on the following bases:

- The Registrant has not engaged with the solicitors instructed by the GPhC following service of the documentation;*
- The length of time he has had notice of the hearing;*
- The adjournment request is made in short order before the commencement of the Principal Hearing;*
- There is no indication as to when the Registrant commenced seeking new representation;*
- There are a number of witnesses scheduled, some of whom are vulnerable; and*
- The matter needs to proceed expeditiously.*

29. Counsel referred the Committee to correspondence from the Registrant to the Council dated 6 July 2026 concerning fixture of the principal hearing. The Registrant stated in that email:

Can we go for 5-12 October.

30. Counsel submitted that the Council, in fairness to the Registrant, accommodated his request.
31. The Committee was provided with legal advice from the Legal Adviser.
32. The Committee was advised to consider the relevant parts of Rule 37. This states:

Postponements and adjournments

37.-(1) The chair may, of their own motion or upon the application of a party, postpone any meeting or hearing of which notice has been given under these Rules before the hearing begins.

(2) The Committee may, of its own motion or upon the application of a party, adjourn the proceedings at any stage provided that—

(a) no injustice is caused to the parties; and

(b) the decision to adjourn is made after hearing representations from the parties (where present).

(3) In considering whether or not to grant a request for postponement or adjournment, the chair or the Committee must, amongst other matters, have regard to—

(a) the public interest in the expeditious disposal of the case;

(b) the potential inconvenience caused to a party or any witnesses to be called by that party;

(c) the conduct of the party seeking the postponement or adjournment; and

(d) fairness to the parties.

33. The Committee was advised of the principles set out in *Crown Prosecution Service v Picton* [2006] EWHC 1108 when considering an application for an adjournment:

a. The need for expedition in the conduct of proceedings; an application for an adjournment should be rigorously scrutinised;

b. Where an adjournment is sought by the regulator, the interest of the Registrant in having the matter dealt with balanced with the public interest;

c. Where an adjournment is sought by the Registrant, the decision maker must consider whether, if it is not granted, he will be able fully to present his defence and, if he will not be able to do so, the degree to which his ability to do so is compromised;

d. In considering the competing interests of the parties the Committee should examine the likely consequences of the proposed adjournment, in particular its likely length, and the need to decide the facts while recollections are fresh;

e. The reason that the adjournment is required should be examined and, if it arises through the fault of the party asking for the adjournment, that is a factor against granting the adjournment, carrying weight in accordance with the gravity of the fault. If that party was not at fault, that may favour an adjournment. Likewise, if the party opposing the adjournment has been at fault, that will favour an adjournment; and

f. The Committee should take appropriate account of the history of the case, and whether there have been earlier adjournments and at whose request and why.

34. The Committee accepted the legal advice of the Legal Adviser.

35. The Committee refused the Registrant's adjournment application. The Committee took into account the following:

- The Council and the Registrant had liaised with one another and both agreed the principal hearing dates. The Registrant was thus aware of the proceedings;
- There was a case management meeting held on 30 September 2026 and the Registrant did not attend notwithstanding the Registrant stating to the Council that morning that he could attend during the afternoon;
- The Registrant provided no evidence of him instructing a new legal firm to assist him in the matter, with the Committee noting that the Registrant became aware of the principal hearing dates as far back as 6 July 2026;
- The number of witnesses intended to be called by the Council in this case and the likelihood of re-fixing an alternative date and time where all the relevant witnesses would be available was contrary to the public interest;
- The case was serious in nature; and
- There was a clear public interest in the expeditious disposal of the case.

36. Following the Committee's decision to refuse to adjourn, at midday of day 1 of the hearing the Committee asked the Council to communicate its decision to him at his registered email address. The Committee decided to adjourn to 1:30pm that day to allow the Registrant an opportunity to join the hearing. The hearing resumed at 1:30pm and the Registrant did not appear.

37. During the morning of day 2 of the hearing, Counsel informed the Committee that the Registrant had emailed the Council the night before after being informed of the Committee's decision to refuse the application to adjourn. The Registrant included a document with his email which set out which of the Particulars of Allegations he was admitting to. The Registrant stated:

Hi Francesca,

I was disappointed to see that the adjournment had been refused today. I have attached a copy of the listing questionnaire with the allegations table filled out. I hope this is of use at the hearing.

KR

Matthew Cook

Application by the Council for part of the hearing to be held in private

38. The Committee heard an application from Counsel on behalf of the Council, pursuant to Rule 39(3), for part of the hearing to be held in private. Counsel submitted that highly sensitive medical evidence concerned with Patients A, B and C would be heard by the Committee, and

it would be a disproportionate interference with their Article 8 rights (*respect for private and family life*) to have such private matters discussed in a hearing held in public. Counsel acknowledged the public interest in open justice but submitted that Article 8 rights of Patients A, B and C outweighed the public interest in this case.

39. The Registrant was not present for day 1 of the hearing and therefore no representations were received.
40. The Committee was provided with legal advice from the Legal Adviser.
41. The Committee was advised to consider Rule 39, in particular Rule 39(3). This states:

Attendance of the public at hearings

...

(3) A hearing before the Committee other than a hearing referred to in paragraph (2) may be held wholly or partly in private if the Committee—

(a) has given the parties (where present), and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and

(b) is satisfied that the interest of the person concerned or the third party in maintaining their privacy outweighs the public interest in holding the hearing, or the part of the hearing, in public.

42. The Committee was advised of Patients A, B and C Article 8 rights, in particular matters concerning highly sensitive medical information pertaining to them in this case. The Committee was advised of the need to carefully consider those rights balanced against the public interest in having the hearing held in public. The Committee was referred to the case of *Lu v Solicitor Regulation Authority* [2022] EWHC 1729 (Admin) and the requirement to undertake a fact specific evaluation relevant to this case.
43. The Committee accepted the legal advice of the Legal Adviser.
44. The Committee was of the view that it would be appropriate for parts of the hearing to be held in private where highly sensitive medical information pertinent to Patients A, B and C was going to be referred to in discussions by the Committee. The Committee considered this outweighed the public interest in this case.

Application by the Council for special measures for Patient A

45. The Committee heard an application from Counsel on behalf of the Council, pursuant to Rule 44, for special measures for Patient A. The special measures sought were set out in Counsel's skeleton argument which stated:
 - a. That the Registrant be required to turn his camera off whilst Patient A attends the Remote hearing to give her evidence.*
 - b. That Patient A is permitted to have her NHS Drug and Alcohol Recovery Support Worker to attend as her support person.*
46. Counsel submitted in their skeleton argument the effect upon Patient A in giving evidence with the aid of the special measures sought:

The proposed special measures will allow Patient A to give her best evidence and safeguard her welfare. In the absence of these special measures, Patient A's quality of evidence at the hearing is likely to be adversely affected, and it is likely to discourage from her attending the hearing at all, which would be detrimental to all parties involved in the proceedings.

47. Counsel referred the Committee to a file note made by the Council's case administrator on 9 September 2026, of a conversation between Patient A's NHS recovery support worker and the case administrator about special measures. The file note recorded the basis for the special measures sought:

...Patient A has raised some concerns:

1. She is very worried about seeing the PP, and the PP seeing her on the video link when giving evidence.

2. She has received a phone call from a female stating that if she proceeds with giving evidence she will be 'in big trouble' and this has caused her a lot of upset and worry.

48. For the specific purpose of considering the application, the Committee also took into account what Patient A stated in her witness statement. Patient A stated:

...When he got sacked, I remember Mathew told me not to say anything to anyone about the methadone or other drugs. He was worried he would get in trouble and told me I should say nothing to anyone.

49. The Committee noted Counsel's skeleton argument where it states as to the alleged intimidation:

Separately, it is not clear whom the contact was made by, by Patient A received a telephone call from a female, advising that should she give evidence, there would be consequential 'trouble' for her. The email confirming the same is at Appendix B. The GPhC is not seeking to make any aspersions as to the Registrant's involvement in this call, but it has caused Patient A considerable angst, thereby adding to her concerns about giving evidence.

50. Counsel was asked by the Committee to clarify under which specific limb of Rule 44 the application was being made. Counsel informed the Committee that the application was being made pursuant to Rule 44(1)(f), namely any witness who complains of intimidation.

51. Counsel further referred to their skeleton argument and referenced therein the case of *Virdee v The General Pharmaceutical Council* [2015] EWHC 169 (Admin). The Committee noted the excerpt from the case:

Vulnerable witnesses can appear in any court or tribunal. Special measures are not confined to criminal cases (hence, the Fitness to Practice Rules expressly cater for them). These measures are available to serve an important purpose: to ensure that the court or tribunal receives the best evidence available in all the circumstances. Far

from creating an imbalance in favour of the complainant, special measures, when granted in an appropriate case, will ensure that there is equality of arms.

52. The Committee was provided with legal advice from the Legal Adviser.

53. The Committee was advised to consider Rule 44, in particular Rule 44(1)(f). This states:

Vulnerable witnesses at hearings

44.—(1) In proceedings before the Committee, the following may, if the quality of their evidence is otherwise likely to be adversely affected, be treated as vulnerable witnesses—

(a) any witness under the age of 18;

(b) any witness with a mental disorder (within the meaning of the Mental Health Act 1983(13));

(c) any witness who is significantly impaired in relation to intelligence or social functioning;

(d) any witness with a physical disability who requires assistance to give evidence;

(e) any witness, where an allegation against a person concerned is of a sexual nature and the witness was the alleged victim; or

(f) any witness who complains of intimidation.

54. The Committee was referred to the evidence in support of the application. The Committee was advised that they should consider what intimidation was reported by Patient A and that merely complaining of intimidation is insufficient. The Committee was advised to consider whether Patient A genuinely felt intimidated based on Patient A's own perspective, background, and characteristics, rather than applying an objective reasonableness standard. The Committee were advised to have regard to the particular circumstances of Patient A and the case itself. The Legal Adviser also referred the Committee to the case of *R. (on the application of Levett) v Health and Care Professions Council* [2013] EWHC 3330 (Admin).

55. The Committee was advised, in fairness to the Registrant, that it should exercise caution and not engage in an inquiry about the alleged intimidation as that would amount to pre-judging issues prior to the substantive hearing of the case.

56. The Committee accepted the legal advice of the Legal Adviser.

57. The Committee decided Patient A came within the ambit of Rule 44(1)(f). The Committee considered that Patient A was a vulnerable witness given what was reported to the Council via their support worker on 9 September 2026. The Committee noted that this record was very recent and contemporaneous. The Committee took into account the subjective effect upon Patient A as described in the application. The Committee considered that Patient A's particular circumstances and the matters alleged in this case amplified their vulnerability. The Committee noted a lack of special measures could discourage Patient A coming forward to give evidence before the Committee. The Committee took into account Patient A's witness statement insofar as considering this specific application.

58. In fairness to the Registrant, the Committee made no findings as to the allegation of intimidation and did not pre-judge issues in the case.

59. The Committee then considered the measures proposed by Counsel and if the quality of Patient A's evidence would otherwise likely to be adversely affected if the special measures sought were not granted.
60. The Committee decided the Registrant would be required to turn his camera off whilst Patient A attended the hearing. The Registrant would also be required to keep his microphone off whilst Patient A was giving evidence. The Committee considered this did not prejudice the Registrant, as the Registrant would still be able to participate in the hearing and see and hear Patient A whilst Patient A gave evidence. The Committee confirmed that this particular special measure had been granted to ensure that Patient A gave their best evidence.
61. The Committee also considered whether to permit Patient A to have their recovery support worker to attend as their support person. The Committee noted the above points for this aspect of the special measures sought. The Committee decided it would allow Patient A to be accompanied by their recovery support worker. The Committee noted that the recovery support worker is a professional person who was best placed to offer Patient A support given the particular circumstances of Patient A as well as the circumstances of this case. The Committee directed that the recovery worker be visible at all times to both the Registrant and the Committee during the course of Patient A giving evidence. The Committee confirmed that this special measure had been granted to ensure that Patient A gave their best evidence.

Application by the Council to rely upon the written evidence of KB

62. The Committee heard a hearsay application from Counsel on behalf of the Council, to rely upon the written evidence of KB.
63. Counsel informed the Committee that KB had intended to attend the hearing to give evidence and was listed on the witness list. However, for personal reasons that Counsel was not permitted to divulge to the Committee, KB could no longer attend.
64. Counsel submitted that KB's evidence could be relied upon as it was provided in a witness statement containing a statement of truth and that it was signed. Counsel submitted that KB provided evidence which was relevant to the case and it was therefore fair to have the evidence admitted. Counsel further submitted that KB's evidence corroborated the evidence of the other witnesses in the case and, in any event, was not sole or decisive in the overall context of the case.
65. The Committee was provided with legal advice from the Legal Adviser.
66. The Committee was advised to consider the relevant parts of Rule 24. This states:

Evidence

24.—(1) *All questions of admissibility of evidence and law before the Committee are to be decided by the Committee (after having obtained the advice of the legal adviser, where appropriate).*

(2) *Subject only to the requirements of relevance and fairness, the Committee may receive—*

(a) subject to paragraph (3), any documentary evidence; and

(b) where a hearing is held, any oral evidence,

whether or not such evidence would be admissible in any subsequent civil proceedings if the decision of the Committee were appealed to the relevant court.

67. The Committee was also advised of the legal principles established in the cases of *Ogbonna v Nursing and Midwifery Council* [2010] EWCA Civ 1216 and *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin). The Committee was referred to paragraphs 45 and 56 of the judgment in *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin), which established the principles the Committee should apply when considering admissibility of hearsay evidence:

45. For the purposes of this appeal, the relevant principles which emerge from the authorities are these:

1.1. The admission of the statement of an absent witness should not be regarded as a routine matter. The FTP rules require the Panel to consider the issue of fairness before admitting the evidence.

1.2. The fact that the absence of the witness can be reflected in the weight to be attached to their evidence is a factor to weigh in the balance, but it will not always be a sufficient answer to the objection to admissibility.

1.3. The existence or otherwise of a good and cogent reason for the non-attendance of the witness is an important factor. However, the absence of a good reason does not automatically result in the exclusion of the evidence.

1.4. Where such evidence is the sole or decisive evidence in relation to the charges, the decision whether or not to admit it requires the Panel to make a careful assessment, weighing up the competing factors. To do so, the Panel must consider the issues in the case, the other evidence which is to be called and the potential consequences of admitting the evidence. The Panel must be satisfied either that the evidence is demonstrably reliable, or alternatively that there will be some means of testing its reliability.

...

56...

(i) whether the statements were the sole or decisive evidence in support of the charges;

(ii) the nature and extent of the challenge to the contents of the statements;

(iii) whether there was any suggestion that the witnesses had reasons to fabricate their allegations;

- (iv) the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;*
- (v) whether there was a good reason for the non-attendance of the witnesses;*
- (vi) whether the Respondent had taken reasonable steps to secure their attendance; and*
- (vi) the fact that the Appellant did not have prior notice that the witness statements were to be read.*

68. The Committee accepted the legal advice of the Legal Adviser.

69. The Committee took into account the following before making its decision upon the Council's application:

- That the admission of the written evidence of an absent witness should not be regarded as a routine matter;
- That KB's evidence was not sole or decisive in the overall context of the case and parts of the evidence was documented in other evidence in the case. The Committee considered this in itself was not sufficient to permit KB's evidence to be admitted;
- That the case concerned serious matters for determination by the Committee;
- There was no information from the Council about what steps it had taken to try and secure KB's attendance; and
- That whilst the evidence was relevant, it was unfair to admit the evidence, as there was no good or cogent reason provided by the Council for KB not attending.

70. For the reasons set out above, the Committee refused the Council's application to rely upon the written evidence of KB.

Application by the Council to rely upon the written record of Patient B's account

71. The Committee heard a hearsay application from Counsel on behalf of the Council, to rely upon the written record of Patient B's account. The written record was exhibited by witness RS, a former employee of the Council, and exhibited as RS/01.

72. Counsel provided clarification to the Committee as to the nature of the Teams call recorded in the written record. Counsel informed the Committee that the written record was made following a video Teams call with both Patient B and their NHS recovery support worker present. The Committee noted that RS recorded in the written record that Patient B had smoked cannabis prior to speaking with him. The Committee asked Counsel for further details as to how the Teams call came about, as there was no other reference within the evidence to Patient B, other than the single written record. Counsel informed the Committee that the nexus to Patient B was via the recovery support worker, who was also supporting another witness in this case.

73. Counsel was further asked to clarify whether a witness statement was provided by Patient B and if Patient B's identity was known. Counsel informed the Committee that no witness

statement was provided by Patient B and that Patient B had wanted to remain anonymous. The Committee noted that the file note indicated that Patient B would think about whether to provide a witness statement and asked Counsel what follow up action had been taken. Counsel confirmed that the Council had contacted Patient B's recovery support worker by email on 27 May 2025 and that they had confirmed on 29 May 2025 that Patient B had decided against providing a witness statement.

74. Counsel submitted that the written record of Patient B's account should be permitted as evidence in the case as it was a written record made by a Council employee at the material time. Counsel submitted that the witness statement exhibiting the written record was signed by RS, a former Council employee and therefore it was credible. Counsel further stated that RS would be attending to give evidence about what he was told by Patient B.
75. Counsel stated that Patient B did provide sole and decisive evidence in this case pertaining to Particular number 6 and that the Committee could factor any appropriate weight it gave to the evidence, should the evidence be deemed admissible.
76. The Committee was provided with legal advice from the Legal Adviser.
77. The Committee was advised to consider Rule 24 and the well-established legal principles set out in *Ogbonna v Nursing and Midwifery Council* [2010] EWCA Civ 1216 and *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin). These had been referred to previously by the Legal Adviser during the course of the proceedings.
78. The Committee accepted the legal advice of the Legal Adviser.
79. The Committee took into account the following before making its decision upon the Council's application:
 - That the admission of the written evidence of an absent witness should not be regarded as a routine matter;
 - There was no witness statement from Patient B as to the contents of the written record;
 - No additional witness statement was provided to corroborate the account given by Patient B, in particular given the fact that a recovery support worker had been present during the video Teams call;
 - That Patient B's evidence was anonymous;
 - That Patient B's evidence was sole and decisive for Particular number 6;
 - That the case concerned serious matters for determination by the Committee;
 - That the evidence was relevant but that it was unfair to admit the evidence, particularly as the evidence could not be tested; and
 - Questions as to the credibility and reliability of Patient B, given the written record stating that Patient B had smoked cannabis prior to speaking with RS.

80. For the reasons set out above, the Committee refused the Council's application to rely upon the written record.

Application by the Council to rely upon the written evidence of Patient A

81. The Committee heard a hearsay application from Counsel on behalf of the Council, to rely upon the written evidence of Patient A.
82. Patient A had been due to attend the hearing on day 2 of the principal hearing to give evidence before the Committee. During the morning of day 2 of the principal hearing, Counsel informed the Committee that Patient A would not be attending. Counsel informed the Committee that Patient A was being supported by two NHS recovery support workers and was not "*stable*" to participate in the proceedings.
83. Counsel stated that Patient A's recovery support workers had been in regular contact with the Council to advise that, whilst Patient A was motivated to engage with the proceedings, the enormity of appearing before the Committee was particularly overwhelming for them.
84. Counsel referred the Committee to very recent correspondence between the Council and the recovery support workers between 30 September 2026 and 1 October 2026, which Counsel submitted was demonstrative of the concerted efforts the Council had made to secure Patient A's attendance.
85. Counsel further advised that the Committee deemed Patient A to be a vulnerable witness and that the Committee had previously exercised its discretion to permit special measures to facilitate Patient A's ability to give evidence.
86. Counsel informed the Committee that Patient A provided direct evidence concerned with the Particulars numbered 1, 2, 3, 4, 5, 7 and 8. Counsel submitted that Patient A had signed a witness statement that also contained a statement of truth.
87. Counsel informed the Committee that Patient A was therefore a crucial but a highly vulnerable witness. Counsel submitted that whilst Patient A provided direct evidence concerned with the Particulars numbered 1, 2, 3, 4, 5, 7 and 8, Patient A's evidence was not sole or decisive given part of Patient A's evidence was supported and corroborated by another witness, GG. Further, Counsel stated that there was contemporaneous independent documentary evidence in support of the Council's case.
88. Counsel advised the Committee that it was not always the case in hearsay applications that untested evidence is an automatic bar to admissibility, and that the evidence of Patient A was clearly relevant and that the public interest demanded Patient A's evidence be admitted to ensure fairness in the proceedings.
89. Counsel also addressed the Committee on whether a witness summons to secure Patient A's attendance would be proportionate and in the public interest. Counsel submitted that:

- Patient A is a particularly vulnerable person, and even with the special measures granted by the Committee, it would be distressing for Patient A to be compelled to attend;
- The impact on Patient A's health, in particular with the recovery support workers informing the Committee that Patient A was not "*stable*" to participate in the proceedings. That information was provided in very recent contact between the Council and the recovery support workers;
- Patient A was, at times, of no fixed abode and that the Council did not hold a current address for Patient A. Counsel submitted that this was indicative of Patient A's increased vulnerability; and
- Patient A is not a pharmacy professional thus Patient A had no duty to assist in these proceedings.

90. The Committee was provided with legal advice from the Legal Adviser.

91. The Committee was advised to consider Rule 24 and the well-established legal principles set out in *Ogbonna v Nursing and Midwifery Council* [2010] EWCA Civ 1216 and *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin). These had been referred to previously by the Legal Adviser during the course of the proceedings.

92. The Legal Adviser also referred the Committee to the case of *Professional Standards Authority for Health and Social Care v General Pharmaceutical Council, Azhar Ahmed* [2024] EWHC 3335 (Admin) and to Article 62 of Pharmacy Order 2010, in relation to the position concerning vulnerable witnesses and the seeking of a witness summons.

93. The Committee accepted the legal advice of the Legal Adviser.

94. The Committee first considered Counsel's submissions concerned with witness summoning Patient A. The Committee took into account the following:

- The concerted effort of the Council to secure Patient A's attendance before the Committee, including very recent correspondence between the Council and Patient A's recovery support workers, as recent as 1 October 2026;
- That Patient A was reported by the recovery support workers to not be "*stable*" to participate in the proceedings. The recovery support workers had significant concerns around Patient A's particular vulnerability;
- That the Committee deemed Patient A vulnerable and had permitted Patient A to give evidence with the aid of special measures;
- That Patient A was not a pharmacy professional; and
- The express wishes of Patient A via the recovery support workers that Patient A did not want to attend to give evidence.

95. The Committee decided, in the particular circumstances of this case, it was not proportionate nor in the public interest to seek a witness summons for Patient A.

96. The Committee then considered the Council's application to rely upon Patient A's written evidence. The Committee took into account the following:

- That the admission of the written evidence of an absent witness should not be regarded as a routine matter;
- That Patient A had provided a witness statement that was signed and was accompanied with a statement of truth;
- There were good and cogent reasons for Patient A not appearing before the Committee to give evidence, and those reasons were communicated very recently via the recovery support workers;
- That Patient A's evidence was partly supported by another witness, and part of Patient A's evidence was also supported by contemporaneous independent documentary evidence;
- That Patient A's evidence was not sole or decisive;
- That Patient A's evidence was relevant to the case;
- That it was not unfair to admit the evidence, given the evidence was partly supported by other corroborating evidence and its reliability could be tested; and
- The fact that the Committee could give appropriate weight to the evidence.

97. For the reasons set out above, the Committee allowed the Council's application to rely upon Patient A's written evidence.

Registrant's response to Particulars of Allegation

98. On the morning of day 2 of the principal hearing, Counsel on behalf of the Council, informed the Committee that the Registrant had emailed the Council the night before with his responses to the Council's listing questionnaire.

99. Counsel informed the Committee that the Registrant denied the Particulars numbered between 1 and 8. Counsel informed the Committee that the Registrant admitted the Particulars numbered 9, 10, 11, 11.1, 11.2, 11.3, 11.4 and 11.5.

100. Counsel provided the Committee a copy of the completed listings questionnaire. In the light of the above, and pursuant to Rule 31(6), the Committee found the admitted Particulars proved.

101. The Committee went on to receive evidence and submissions regarding the remaining disputed Particulars.

Background

102. The allegations in this case arise from the Registrant's time employed as a Pharmacist at the Pharmacy between January 2025 and March 2025.

103. The Council alleged that the matters relate to the Registrant dispensing to patients more than their prescribed dosage of methadone; dispensing incorrect medication to patients; using illegal substances with a patient; and conducting himself in an unprofessional manner in the workplace and towards his work colleagues. Further, the Council alleged the concerns were numerous and sustained over a period of three months during the course of the Registrant's employment at the Pharmacy.

Oral evidence

104. The Committee heard oral evidence from one witness, namely GG.

105. The Council had originally intended to call a total of seven witnesses to give evidence. Following preliminary decisions made by the Committee to exclude evidence in accordance with Rule 24, and the Registrant's admissions in accordance with Rule 31, this significantly reduced the number of witnesses the Council intended to call.

Oral evidence of GG

106. The Committee heard oral evidence from GG. GG adopted the contents of her witness statement and accompanying exhibits (GG/01 – GG/11).

107. The Committee asked questions of GG. GG stated that the Registrant commenced employment with the Pharmacy towards the end of January 2025. GG explained that the Pharmacy's opening hours were between Monday to Saturday, 9:00am to 5:30pm with an hour closure over the lunch period. GG explained that at the time of the Registrant's alleged conduct, she worked at the Pharmacy as a part-time Pharmacist and the Registrant worked full-time as a Pharmacist.

108. The Committee asked about the stock check pertaining to the methadone liquid. GG stated that was undertaken by her on Thursdays. The Committee asked GG about any discrepancies in the quantity of methadone liquid. GG stated that there were occasional discrepancies between the sugar-free and the original methadone balances, as stated at paragraph 24 of her witness statement. GG stated that corrective action was taken following any discrepancies found.

109. The Committee also asked GG about the running balances concerned with the medication diazepam and pregabalin. GG informed the Committee that there were no running balances of those medications.

110. The Committee asked GG about any concerns regarding the Registrant prior to 7 March 2025. GG informed the Committee that the Registrant was frequently late attending work notwithstanding he lived opposite and upstairs to the Pharmacy, and to her recollection, an occasion when he had fallen asleep at work. To GG's recollection, she stated there was nothing "*alarming*" about the Registrant prior to 7 March 2025.

111. The Committee queried with GG about the date in a patient safety incident report, exhibited as GG/01. It referenced a date therein as “22/02/24”. GG stated the date was an error and it should have been cited as 22/02/25. GG stated there was a connected patient safety incident report that she exhibited as GG/03.

Written evidence of Patient A

112. The Committee considered the written evidence of Patient A. The Committee noted that the witness statement contained a statement of truth and that Patient A had signed and dated it.

Decision on Facts

113. In reaching its decisions on the facts, the Committee considered the documentation listed at the start of this determination, oral evidence and the submissions made by Counsel on behalf of the Council. The Committee considered the evidence before it in the round. When considering each Particular of Allegation, the Committee bore in mind that the burden of proof rested upon the Council and that any Particulars found proved was based on the balance of probabilities.

Particular number 1

1. On one or more unknown dates, dispensed to Patient A approximately 65 ml more than her prescribed dose of methadone.

114. The Committee considered paragraph 4 of Patient A’s witness statement. Patient A stated:

One day (I cannot recall the date) I went into the pharmacy and Mathew gave me my normal methadone. He then handed me an extra bottle and just winked at me. I didn’t really know what to do so I decide to just take the extra methadone home and use it. I think on this day I took double my normal dose (so around 130ml). At the time I thought Mathew had offered me extra methadone so why wouldn’t I just take it.

115. The Committee considered the initial patient safety incident report concerned with Patient A and exhibited by GG (GG/01). The Committee noted the date of the report being 15 March 2025 and it was recorded as “Medication error”. The report stated:

Px reported she was given 130mls methadone to consume on 22/02/24 (3 weeks prior) and 65 mls to take away for her Sunday dose. She was unsure what to do with this information and said she had ‘sat’ on this but wanted to let the pharmacy know as she knew it was not right. KN reported that at the time the Pharmacist who issued the methadone (MC) said she would be fine and that he would have to fix it or he would get in trouble but not to worry.

116. The Committee considered a subsequent patient safety incident report also concerned with Patient A exhibited by GG (GG/03). The Committee noted the date of the report being 28 March 2025 and it was recorded as “Follow Up to Earlier Report”. The report stated:

...

Patient A had consumed her take home dose of 65mls at home that morning. She presented at the pharmacy for a 'minor ailment' and Matthew Cook gave her 65mls of methadone in a cup in the consultation room. She started drinking the methadone and then realised she wasn't in for that today. She alerted Matthew Cook that she wasn't due this dose today and that she had already had 65mls at home. Patient A stated MC told her not to worry and she would be ok and he would 'sort it'. Patient A then reported he poured the remainder she had not taken in a bottle for her to take home. Patient A stated MC said he would have to 'fix it' as it would be noticed. 'Bigger amounts are noticed, smaller are ok'

Patient A stated MC often gave 5-10mls extra.

117. The Committee considered paragraph 15 of GG's witness statement. GG referenced within that paragraph the conversation she had with Patient A on 28 March 2025. The Committee noted that the evidence contained within the reports was contemporaneous, consistent and corroborated the account given by Patient A. The Committee deemed it appropriate to attach weight to the reports.

118. The Committee noted the oral evidence given by GG concerning the stock take she undertook on Thursdays. The Committee also noted the evidence of Patient A at paragraph 8 of their witness statement, where Patient A stated they had been told by the Registrant that the stock take was undertaken on Fridays and that "he had to be careful how much extra methadone he took". The Committee considered it improbable that Patient A would have known details of the stock take, had Patient A not been informed of that information by the Registrant. The Committee considered the evidence to be consistent and corroborated the account given by Patient A.

The Committee found Particular number 1 proved.

Particular number 2

2. On one or more unknown dates, dispensed to Patient A all or some of the following medicines in unknown quantities, without having in place a valid prescription:

2.1 Pregabalin

2.2 Diazepam

119. The Committee considered the evidence contained within the patient safety incident reports, in particular reference in the report dated 28 March 2025 (exhibit GG/03) where it was recorded therein that "Patient A stated that he gave extra pregabalin and that was an ongoing thing." The Committee considered Patient A's witness statement at paragraph 6 where they stated:

There were also occasions when Mathew gave me extra Pregabalin. I think this might have been on about 10 occasions. Mathew would come into the room with me and then just hand me some extra Pregabalin. I was prescribed 3 of these per day but Mathew might give me somewhere between 3 and 5.

120. The Committee further considered Patient A's witness statement at paragraph 9 where they stated:

Mathew also gave me some diazepam to take. This wasn't prescribed to me. He just gave them to me to take when I told him I couldn't sleep due to smoking crack cocaine.

121. The Committee noted the oral evidence of GG where she stated that there was no running balances concerned with the medication diazepam and pregabalin. The Committee decided that as Patient A's evidence in this respect could not be tested and was not corroborated by any other independent evidence, there was insufficient evidence to find this Particular proved.

The Committee found Particular number 2 unproved.

Particular number 3

3. On one or more occasions, failed to accurately record the amounts of Methadone that you dispensed to Patient A.

122. The Committee considered paragraph 20a of GG's witness statement. GG stated:

On this CD register (GG/04) I noticed that:

a. 4 February 2025 (Tuesday) - There are additional entries for doses dispensed on 30 January 2025 and 29 January 2025 added by myself (GG). I recall I added these to the system as I was correcting the record. These were doses that Matthew had told me he had dispensed but had been missed off the system.

123. The Committee considered GG's exhibit GG/04. The Committee noted this reflected the account given by GG in her witness statement. The Committee further noted that the specific corrected entries made by GG to Patient A's record on 30 January 2025 and 29 January 2025 respectively, did not follow a chronological date order, unlike the rest of the record. The Committee considered this further corroborated GG's evidence that she had to correct Patient A's record after the Registrant failed to accurately record the amounts of methadone the Registrant had dispensed to Patient A.

The Committee found Particular number 3 proved.

Particulars number 4 and 5

4. On an unknown date, provided Patient A with the names of two other patients who were prescribed methadone

5. Your actions at paragraph 4 above were a breach of patient confidentiality.

124. The Committee considered paragraph 19 of Patient A's witness statement where it stated:

Mathew also told me there were 3 other people at the pharmacy that took methadone – Patient B who got more than me, Patient B he only got 30ml, and me. I didn't really know why Mathew told me that and think he should not have given me information about other patients.

125. The Committee decided that as Patient A's evidence in this respect could not be tested and was not corroborated by any other independent evidence, there was insufficient evidence to find this Particular proved.

The Committee found Particulars number 4 and 5 unproved.

Particular number 6

6. On an unknown date, dispensed to Patient B, approximately 80ml methadone instead of his prescribed dose of 25 ml.

126. The Committee had considered the admissibility of the evidence concerned with Patient B during determinations relating to preliminary applications. The Committee had excluded evidence concerned with Patient B. In the absence of evidence from Patient B, there was no evidence to support this Particular.

The Committee found Particular number 6 unproved.

Particular number 7

7. Your actions in paragraphs 1, 2, and/or 6 were deliberate and/or were done with a reckless disregard to the harm that they could cause.

127. The Committee considered paragraphs 4 and 5 of Patient A's witness statement where it stated:

One day (I cannot recall the date) I went into the pharmacy and Mathew gave me my normal methadone. He then handed me an extra bottle and just winked at me. I didn't really know what to do so I decide to just take the extra methadone home and use it. I think on this day I took double my normal dose (so around 130ml). At the time I thought Mathew had offered me extra methadone so why wouldn't I just take it.

Follow on from this Mathew would often give me some extra methadone. For example, I have methadone to take home and use. On days when I had already had my home dose I would sometimes go into the pharmacy and Mathew would give me another dose. I am sure he knew I had already had my home dose as I sometimes asked him if it was safe, and he told me it would be. I trusted him as he was a pharmacist.

128. The Committee also considered the patient safety incident reports exhibited by GG as exhibits GG/01 and GG/03, in particular exhibit GG/03, where it recorded:

Patient A had consumed her take home dose of 65mls at home that morning. She presented at the pharmacy for a 'minor ailment' and Matthew Cook gave her 65mls of methadone in a cup in the consultation room. She started drinking the methadone and then realised she wasn't in for that today. She alerted Matthew Cook that she wasn't due this dose today and that she had already had 65mls at home. Patient A stated MC told her not to worry and she would be ok and he would 'sort it'. Patient A then reported he poured the remainder she had not taken in a bottle for her to take

home. Patient A stated MC said he would have to 'fix it' as it would be noticed. 'Bigger amounts are noticed, smaller are ok'

129. The Committee considered that these reports corroborated Patient A's account. The Committee noted Patient A's records (exhibit GG/04) and the corrective entries GG stated she had to make to Patient A's records as a result of the Registrant's actions. The Committee considered that the Registrant must have known at least part of Patient A's medical history and records given the Registrant had dispensed medication to Patient A, and that the Registrant must have been aware of Patient A's vulnerabilities. In light of the above, the Committee decided that the Registrant's actions were deliberate.

130. The Committee considered whether the Registrant's actions amounted to a reckless disregard to the harm that they could cause. The Committee considered the legal definition of recklessness as held in the case of *R v G* ([2003] UKHL 50):

A person acts recklessly with respect to:

(i) a circumstance when he or she is aware of a risk that it exists or will exist

(ii) a result when he or she is aware of a risk that it will occur

and it is, in the circumstances known to him or her, unreasonable to take that risk.

131. The Committee considered the evidence referenced above. The Committee noted that the Registrant must have been aware of at least part of Patient A's medical history and records, and the associated dangers and harm caused by dispensing methadone beyond what was prescribed in this particular case. Further, the Committee considered it improbable that as a Pharmacist, the Registrant would not know the effects of dispensing methadone beyond what was prescribed and the effect of that action upon Patient A. Patient A stated in her witness statement at paragraph 7 about that effect:

...I suffered from fits and was really ill so I knew I had to stop taking the extra medication Mathew was giving me.

132. Patient A further stated in her witness statement, at paragraphs 15 and 16:

PRIVATE. When I started thinking about that I then became concerned about what Mathew was doing. I wasn't worried about myself but thought he might give extra methadone to someone else, and they could get badly hurt or even die...

Due to this I went into the pharmacy on a day when Mathew wasn't there and started asking questions about methadone and what might happen if you took too much. I then told staff about Mathew and the fact that he was giving me more methadone than he should. They started to write things down.

133. In light of the above and the evidence in the case, the Committee decided that the Registrant's actions did amount to a reckless disregard to the harm that they could cause.

The Committee found Particular number 7 proved only in relation to Particular number 1.

Particular number 8

8. On one or more occasions, used illegal drugs including cocaine and / or crack cocaine in the presence of Patient A.

134. The Committee considered paragraphs 12 and 14 of Patient A's witness statement where it stated:

There was another day when I went to an address to get some drugs to smoke. When I arrived, I was really surprised to see Mathew there. He then offered that we smoke a gram of crack cocaine together. I agreed and me and Mathew then smoked the crack. Mathew smoked the crack at my house. He stayed at mine until the early morning (about 5am) before he then left.

...

I would have smoked drugs with Mathew on a few occasions. Perhaps 3 times a week although I cannot be sure.

135. The Committee decided that as Patient A's evidence in this respect could not be tested and was not corroborated by any other independent evidence, there was insufficient evidence to find this Particular proved.

The Committee found Particular number 8 unproved.

Misconduct and Impairment

The Committee's approach and decision on Misconduct

136. Having found some of the Particulars of Allegation proved, the Committee went on to consider whether the Registrant's fitness to practise is impaired by reason of misconduct.

137. The Committee heard submissions from Counsel on behalf of the Council. Counsel submitted that the Registrant's fitness to practise is impaired by reason of misconduct. Counsel also submitted that the Registrant's conduct fell far below the expected standards of a Pharmacist.

138. Counsel further submitted that the Council's *Standards for Pharmacy Professionals* (May 2017) referred to in the Council's Statement of Case had been breached by the Registrant. For brevity the Standards referred to by Counsel are:

Standard 1: Pharmacy professionals must provide person-centred care, which includes considering the impact of their practice, respecting and safeguarding patients;

Standard 2: Pharmacy professionals must work in partnership with others, including working with the person receiving care, demonstrating effective team working, taking action to safeguard people, and making and using records of care provided;

Standard 5: Pharmacy professionals must use their professional judgement, which includes making patient care their first concern, using judgement to make clinical and professional decisions, and practising only when fit to do so;

Standard 6: Pharmacy professionals must behave in a professional manner, which includes maintaining appropriate professional boundaries and acting with honesty and integrity; and

Standard 9: Pharmacy professionals must demonstrate leadership, which includes assessing the risks in the care they provide and doing everything they can to keep these risks as low as possible, and taking responsibility for their practice.

139. Counsel referred the Committee to the Particulars of Allegation proved in this case. Counsel submitted that the Registrant's action of dispensing more methadone than prescribed to Patient A was a serious breach of the Standards. Further, Counsel stated the Registrant's conduct caused harm to Patient A. Counsel submitted that the Registrant's conduct was deliberate and showed a reckless disregard to the harm it caused others.

140. Counsel stated that the failure of the Registrant to provide correct dosages of methadone was a failure in his duty of care to Patient A. Counsel further submitted that the Registrant's dispensing errors concerned with Patient C caused Patient C harm.

141. Counsel submitted that the Registrant's conduct at his place of work was wholly unprofessional towards his colleagues or patients, and that the Registrant not being fit to attend work was a relevant consideration as to the wider harm that had been caused.

142. Counsel further submitted that the Registrant's misconduct was such that it represented serious misconduct to the extent that the Registrant's fitness to practise is impaired. Counsel stated that the Registrant's conduct gave rise to public protection concerns and damaged the reputation of the pharmacy profession as a whole.

143. Counsel referred the Committee to the factors set out in Rule 5(2), which the Committee was required to determine in deciding whether the Registrant's fitness to practise is impaired. Counsel submitted that all of the limbs of Rule 5(2) were engaged in this case.

144. The Committee was provided with legal advice from the Legal Adviser.

145. The Committee was advised to consider Article 51(1) of the Pharmacy Order. This states:

(1) A person's fitness to practise is to be regarded as "impaired" for the purposes of this Order only by reason of—

(a) misconduct;

146. The Committee was advised that a two-stage test was required when considering the issues of misconduct and impairment. The Committee must first consider whether the Registrant's conduct (as admitted or found proved at the finding of facts stage) constitutes 'misconduct'. If the Committee found that the Registrant had committed misconduct, then the Committee would then need to consider whether the misconduct leads to a finding that the Registrant's fitness to practise is impaired.

147. The Committee was also referred to the case of *Roylance v General Medical Council* (No.2) [2000] 1 A.C. 311 as to the definition of misconduct applicable in a case such as this:

a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.

148. The Committee was referred to the case of *Cheatle v General Medical Council* [2009] EWHC 645 (Admin), which held that misconduct must be serious, rather than mere misconduct. The Committee was also advised to consider that any failing must be serious, such that it would attract a degree of opprobrium or harsh criticism. The Committee was directed to consider the meaning of 'serious', as per the observation of J Collins in *Nandi v General Medical Council* [2004] EWHC 2317 (Admin):

The adjective 'serious' must be given its proper weight and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners.

149. The Committee was asked to keep in mind the case of *Spencer v General Osteopathic Council* [2012] EWHC 3147 (Admin) and the principle that "*mere negligence does not constitute misconduct*" and that "*a single negligent act or omission is less likely to cross the threshold of misconduct than multiple acts or omissions*" (*Calhaem v General Medical Council* [2007] EWHC 2606 (Admin)).

150. The Committee accepted the legal advice of the Legal Adviser.

151. The Committee examined the Particulars of Allegation found proved in this case. The Committee considered the following:

- That methadone a controlled drug of class A and listed under Schedule 2 of the Misuse of Drugs Act 1971. It is subject to strict regulatory controls;
- That the Registrant's conduct in dispensing more methadone than was prescribed to Patient A was serious and unacceptable;
- That increasing the amount of methadone beyond what was prescribed to Patient A caused Patient A harm;
- That the Registrant's conduct was deliberate and showed a reckless disregard to the harm that this could, and did cause, to Patient A who was vulnerable;
- That the Registrant's conduct placed Patient A at risk of further harm in his failure to record the amounts of methadone dispensed to Patient A;
- That the Registrant's error in dispensing the incorrect medication to Patient C was serious and the subsequent harm that caused to Patient C;
- That the error in placing one patient's medication in the bag of another, different patient, was a serious lapse in concentration;
- That the instances of the Registrant's misconduct were numerous and repeated in a short period of time;
- That the Registrant's conduct had the potential to cause further wider harm to the public was extremely serious;
- That the overall conduct of the Registrant as described in Particular 11 was far below the standards expected of a Pharmacist, in particular because on some, or all of the occasions, he was the Responsible Pharmacist on duty; and
- That the Registrant's overall conduct was far below the standard expected of a Pharmacist.

152. The Committee agreed with Counsel's submissions that the Registrant had breached Standards 1, 2, 5, 6 and 9, and that the breaches were serious.

153. For these reasons, the Committee determined that the Registrant's conduct amounted to misconduct.

The Committee's approach and decision on Impairment

154. Having found that the Registrant's conduct amounted to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is impaired.

155. The Committee heard submissions from Counsel on behalf of the Council. Counsel submitted that the Registrant's misconduct amounted to impairment because of the Particulars of Allegation proved. Counsel posited that all of the factors set out in Rule 5(2) were engaged in this case.

156. Rule 5(2) states:

5(1) The Committee must have regard to the criteria specified in paragraph (2) or, where appropriate, (3), or, where appropriate, paragraphs (2) and (3), when deciding, in the case of any Registrant, whether or not the requirements as to fitness to practise are met in relation to that Registrant.

(2) 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.

157. Counsel further submitted that the Registrant's conduct caused harm to patients and that there were repeated instances of misconduct over the material time. Counsel submitted that the Registrant's conduct demonstrated a disregard for patient care and that his conduct amounted to an abuse of trust and an abuse of position. Counsel further submitted that the wider public interest was engaged and that the Registrant's conduct amounted to a lack of integrity.

158. Counsel further submitted that the Standards referenced above had been breached, and that the breaches were so serious that the Registrant's fitness to practise is impaired. Counsel submitted that the Registrant's conduct had a direct impact upon the reputation of the pharmacy profession and that public confidence would be damaged should the Committee not find impairment in this case.

159. Counsel further submitted that the Registrant had not engaged with the proceedings, save for the admissions he emailed to the Council after the proceedings had commenced, therefore there was no evidence to demonstrate that the Registrant had any insight into his conduct. Counsel submitted that the risk factors identified in this case have not been ameliorated, in particular as there was no evidence to suggest that the Registrant has learnt from the consequences of his conduct.

160. Counsel, therefore, invited the Committee to find that the Registrant's fitness to practise is impaired by reason of misconduct.

161. The Committee was provided with legal advice from the Legal Adviser.

162. The Committee was advised that that a finding of impairment was separate from the finding of misconduct, and that a finding of misconduct does not automatically mean that the practitioner's fitness to practise is impaired (*Cohen v General Medical Council* [2008] EWHC 581 (Admin)).

163. The Committee was referred to the case of *Cheatle v General Medical Council* [2009] EWHC 645 (Admin), where it was held:

21. There is clear authority that in determining impairment of fitness to practise at the time of the hearing regard must be had to the way the person has acted or failed to act in the past. As Sir Anthony Clarke MR put it in Meadow v General Medical Council [2006] EWCA Civ 1390 [2007] 1 QB 462:

"In short, the purpose of fitness to practise proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. The FPP thus looks forward not back. However, in order to form a view as to the fitness of a person to practice today, it is evident that it will have to take account of the way in which the person concerned has acted or failed to act in the past".

22. In my judgement this means that the context of the doctor's behaviour must be examined. In circumstances where there is misconduct at a particular time, the issue becomes whether that misconduct, in the context of the doctor's behaviour both before the misconduct and to the present time, is such as to mean that his or her fitness to practise is impaired. The doctor's misconduct at a particular time may be so egregious that, looking forward, a panel is persuaded that the doctor is simply not fit to practise medicine without restrictions, or maybe not at all. On the other hand, the doctor's misconduct may be such that, seen within the context of an otherwise unblemished record, a Fitness to Practice Panel could conclude that, looking forward, his or her fitness to practise is not impaired, despite the misconduct.

164. The Committee was also advised to consider the case of *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant* [2011] EWHC 927 (Admin), where it was held:

In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.

165. The Committee was further advised that in relation to current impairment, the Committee must have in mind the overarching objective of fitness to practise proceedings, in that it should consider not only the need to protect the public but the need to uphold the reputation of the profession, and to declare and uphold proper standards of conduct and behaviour.

166. The Committee was further advised to consider whether the Registrant's conduct was easily remediable; whether it has been remedied; and whether it is highly unlikely to be repeated. The Committee were advised that the questions posed in *Cohen v General Medical Council* [2008] EWHC 581 (Admin), and mirrored in section 2.15 of the "*Good decision making: Fitness to practise hearings and outcomes guidance*", was not a test in which the answers determine the question of impairment but form part of its analysis. The Committee was also advised to consider the factors set out in Rule 5(2).

167. The Committee was also advised to have regard to sections 2.11 and 6.8 of the "*Good decision making: Fitness to practise hearings and outcomes guidance*":

2.11 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 your various standards, guidance and advice.

...

6.8 Regulators ensure that public confidence in a profession is maintained. This is a long-established principle and our standards state that professionals should act with honesty and integrity to maintain public trust and confidence in the profession.

168. The Committee accepted the legal advice of the Legal Adviser.

169. The Committee considered the factors applicable as per Rule 5(2). In taking each of the factors in turn, the Committee noted:

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

- That the Registrant continues to present an actual risk to patients and a risk to the wider public, in particular the harm that was caused to Patients A and C as a result of the Registrant's conduct;
- That the Committee had no information before it to indicate that any of the conduct proved had been remedied; and
- That the Registrant's conduct occurred repeatedly over the material period and there was no evidence before the Committee to suggest there would not be a repeat.

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

- That the Registrant held the role of Responsible Pharmacist at the time of the misconduct. A Pharmacist is appointed to that role with the purpose of securing the safe and effective running of a registered Pharmacy when operational. The Registrant's conduct was contrary to that; and
- That the principle established in the case of *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant* [2011] EWHC 927 (Admin) applied in this case and that by virtue of the Registrant's conduct, brought the pharmacy profession into disrepute.

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

- That the Registrant's actions caused harm to patients under his care;
- That the Registrant did not act in the best interest of Patients A and C; and
- That the Registrant's conduct as found proved breached Standards 1, 2, 5, 6 and 9.

(d) *shows that the integrity of the Registrant can no longer be relied upon*

- That as a Pharmacist, the Registrant's conduct, particularly towards Patient A who stated that they trusted him, was a breach of trust and an abuse of position;
- That the principle established in the case of *Wingate v Solicitors Regulation Authority* [2018] EWCA Civ 366 applied in this case, in that integrity connotes adherence to the ethical standards of one's own profession; and
- That the Registrant's conduct demonstrated a lack of integrity.

170. For these reasons, the Committee was satisfied that a finding of impairment was necessary in the public interest.

171. The Committee was satisfied that the Registrant's fitness to practise is impaired, both because of the need to protect the public in the future, and the need to promote and maintain public confidence in the pharmacy profession and proper professional standards of conduct.

The Committee's approach and decision on Sanction

172. Counsel on behalf of the Council, submitted that the circumstances of this case warranted the Registrant's removal from the Register. Counsel referred to the Council's Statement of Case where it sets out the Council's position:

78. Taking the case at its highest, the Council submit that if the Allegation is found proved and current impairment of fitness to practice is accepted by the Committee the Registrant's behaviour is fundamentally incompatible with continued registration and the only appropriate sanction is one of removal. The Registrant, we submit poses an actual risk to patients; a risk which has been evidenced by actual patient harm as demonstrated by Patient A and Patient C. The Registrant has, in the submission of the Council breached a fundamental tenant of the profession in that he has failed to put patient safety first and has failed in his duty to protect patients.

173. Counsel stated that the aggravating factors determined by the Committee at paragraph 169 of its determination was endorsed by the Council.

174. The Committee was provided with legal advice from the Legal Adviser.

175. The Committee was advised that the outcome on sanction was a matter entirely for the Committee's own judgment and that it was not bound by the submissions made on behalf of the Council.

176. The Committee was advised to consider its powers are set out in Article 54(2) of the Pharmacy Order 2010. This states:

Consideration by the Fitness to Practise Committee

54 (1) ...

(2) *If the Fitness to Practise Committee determines that the fitness to practise of the person concerned is impaired, it may—*

(a) give a warning to the person concerned in connection with any matter arising out of, or related to, the allegation and give a direction that details of the warning be recorded in the Register;

(b) give advice to any other person or other body involved in the investigation of the allegation on any issue arising out of, or related to, the allegation;

(c) give a direction that the entry in the Register of the person concerned be removed;

(d) give a direction that the entry in the Register of the person concerned be suspended, for such period not exceeding 12 months as may be specified in the direction; or

(e) give a direction that the entry in the Register of the person concerned be conditional upon that person complying, during such period not exceeding 3 years as may be specified in the direction, with such requirements 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.

177. The Committee was further advised it should consider the available outcomes in ascending order from least restrictive to most restrictive, in order to identify the appropriate and proportionate outcome that meets the circumstances of this case.

178. The Committee was also advised that it must take into account the Council's 'Good decision making: Fitness to practise hearings and outcomes guidance', including the matters set out in in paragraph 5.2:

- *the extent to which the professional has breached the standards as published by the GPhC*
- *the interests of the professional, weighed against the public interest*
- *the overall objectives of the GPhC*
- *the personal circumstances of the professional and any mitigation they have offered or which the committee has identified in its findings*
- *that the decision is sufficient to protect the public*
- *any testimonials and character references given in support of the professional*
- *any relevant factors that may aggravate the professional's conduct in the case*
- *any statement of views provided to the committee by a patient or anyone else affected by the conduct of the professional*
- *any submissions made to the committee by the GPhC's representative, the professional or their representative*
- *the contents of the Guidance.*

179. The Committee was advised that the purpose of imposing a sanction was not to be punitive notwithstanding that a sanction may have a punitive effect. The Committee was advised that any sanction imposed must meet the overarching objectives of regulation, namely the protection of the public, the maintenance of public confidence and to promote professional standards.

180. The Committee was also referred to the case of *Bolton v Law Society* [1994] 2 All ER 486 where it was held:

It often happens that a solicitor appearing before the tribunal can adduce a wealth of glowing tributes...He can often show...the consequences of striking off or suspension

would be little short of tragic. Often he will say convincingly that he has learned his lesson and will not offend again...But none of them touches the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor who they instruct will be a person of unquestionable integrity, probity and trustworthiness.

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

181. The Committee was advised that it must give greater weight to the public interest over the Registrant's interests.

182. The Committee accepted the legal advice of the Legal Adviser.

183. The Committee identified the aggravating features in this case:

- The actual harm caused to Patient A and Patient C as a result of the Registrant's misconduct;
- Patient A was particularly vulnerable which aggravated the harm caused;
- The harm caused was deliberate and that the Registrant displayed a reckless disregard to the harm it caused others;
- The misconduct was numerous and repeated over the material time;
- The Registrant was in a position of trust and he abused that trust;
- The Registrant's behaviour towards his colleagues was unprofessional and reprehensible;
- No evidence of any remorse or insight demonstrated by the Registrant; and
- A lack of engagement with the regulatory disciplinary process, including seeking an adjournment and failing to attend despite being given opportunities to do so and making some admissions after the proceedings had commenced.

184. The Committee was unable to identify any mitigating factors.

185. The Committee considered each of the available outcomes in turn.

186. The Committee first considered taking no action. The Committee was satisfied that taking no action would be inconsistent with its findings and the identified need to protect the public, maintain confidence in the profession and to uphold standards of conduct.

187. The Committee then considered whether it should give advice, or a warning, to the Registrant. The Committee noted the relevant passage at paragraph 4.3 of the Guidance which sets out that a warning may be appropriate when:

There is a need to demonstrate to a Registrant, and more widely to the profession and the public, that the conduct or behaviour fell below acceptable standards. There is no need to take action to restrict a Registrant's right to practise, there is no continuing risk to patients of the public and when there needs to be a public acknowledgement that the conduct was unacceptable.

188. The Committee concluded that advice or a warning would be an insufficient outcome to protect the public, because it would not restrict the Registrant's practice. Further, the Committee concluded it would be insufficient to maintain public confidence in the profession in light of the misconduct the Committee found proved.

189. The Committee then considered the imposition of conditions of practice. The Committee reminded itself of paragraph 4.3 of the Guidance, which states that conditions are most likely to be appropriate where:

There is evidence of poor performance, or significant shortcomings in a Registrant's practice, but the Committee is satisfied that the Registrant may respond positively to retraining and supervision.

There is not a significant risk posed to the public, and it is safe for the professional to return to practice but with restrictions.

190. The Committee concluded this would not be a sufficient outcome to uphold public confidence in the profession or uphold proper standards of conduct. The Committee noted that conditions of practice would require the Registrant's engagement with regulatory disciplinary proceedings. In this particular case, the Registrant had not engaged, save for applying for an adjournment and failing to attend and making admissions after the proceedings had commenced. Further, the Committee considered that conditions of practice would not address the ongoing risk to the public.

191. The Committee next considered whether suspension would be a proportionate outcome. The Committee noted the relevant paragraph of the 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 unbefitting a member of the pharmacy profession. Also, when public confidence in the profession demands no lesser outcome.

192. The Committee examined this case carefully to decide whether suspension was sufficient not only to protect the public but also to maintain public confidence in the profession and uphold standards of conduct for the profession. The Committee concluded, noting the misconduct and the lack of any evidence of insight or remediation, that a period of suspension would not be sufficient to protect the public.

193. The Committee next considered whether removal would be a proportionate outcome. The Committee considered the relevant paragraph at 4.3 of the Guidance:

Removing a professional's registration is reserved for the most serious conduct. The Committee cannot choose this outcome in cases which relate solely to the professional's health. The Committee should consider this outcome when the professional's behaviour is fundamentally incompatible with being a registered professional.

194. The Committee took into account all of the factors above and reminded itself of the seriousness of the matter. The Committee also reminded itself of the overarching objectives of regulation, namely the protection of the public, the maintenance of public confidence and to promote professional standards.
195. The Committee was satisfied that the Registrant's misconduct in this case, in the absence of any evidence of insight or remediation, amounted to conduct that was incompatible with continued registration.
196. The Committee concluded that the appropriate and proportionate sanction was one of removal in these circumstances.
197. The Committee, therefore, directs that the Registrar remove Matthew Cook from the Register.

Interim measures

198. After the Committee announced its decision on sanction, Counsel on behalf of the Council made an application, pursuant to Article 60 of the Pharmacy Order 2010, for an interim measure to be imposed on the Registrant's registration, pending the coming into force of the Committee's substantive order.
199. Counsel reminded the Committee that the sanction it had imposed would not come into force for 28 days at the earliest and, if the Registrant appealed the Committee's decision, the Committee's sanction would not come into force until the appeal had been dealt with.
200. Counsel submitted that, in light of the sanction imposed by the Committee, the interim measure could only be one of immediate suspension. Counsel submitted that the Registrant's lack of engagement and no evidence of any insight and remediation was a relevant consideration as to ongoing risk.
201. Counsel further submitted that interim suspension was necessary to protect the public and in the public interest. Counsel drew the Committee's attention to the findings it had already made in this case.
202. The Committee was provided with legal advice from the Legal Adviser.
203. The Committee was advised to consider Article 60 of the Pharmacy Order 2010. This states:
- If the Fitness to Practise Committee is satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest or in the interests of the Registrant, it may order that the entry of the Registrant who is the subject of the direction in the part or parts of the Register to which the direction relates be suspended forthwith, pending the coming into force of the direction.*
204. The Committee was also advised to give regard to the following paragraphs of the Guidance:

3.3 A Committee may impose interim measures if it is satisfied that they are needed to protect the public, or are otherwise in the public interest or in the interests of the professional. Any interim measures will take effect immediately and can cover the 28-day 'appeal period'. If the Registrant appeals against the decision, they will stay in force until that appeal is decided.

205. The Committee was advised that the interim measure in the form of a suspension may only be imposed if the Committee has decided to suspend the professional, or remove them from the Register. Further, the Committee was advised that such an interim measure must only be imposed if it was satisfied that it was necessary to protect the public or in the public interest.

206. The Committee accepted the legal advice of the Legal Adviser.

207. The Committee found that an interim measure was necessary to protect the public and it was in the public interest. The Committee was satisfied that an informed member of the public would be shocked if the Registrant could return to unrestricted practice following the Committee's decision, in particular where there were identified risks.

Interim Order

208. The Committee was told that there is an interim suspension in place, and that its decision to remove the Registrant from the Register terminates that interim suspension. Accordingly, the Committee imposed an interim measure of suspension. The interim suspension takes effect immediately and will lapse when the decision to remove takes effect, or once any appeal is concluded.

209. That concludes this determination.