

General Pharmaceutical Council

Fitness to Practise Committee

Principal Hearing

Hybrid hearing

7-9 October 2024

Registrant name:	Sebastian Artur Sarama
Registration number:	2081489
Part of the register:	Pharmacist
Type of Case:	Misconduct
Committee Members:	Neville Sorab (Chair) Jignesh Patel (Registrant member) Roseann Kane (Lay member)
Committee Secretary:	Zainab Mohamad
Registrant:	Present and not represented
General Pharmaceutical Council:	Represented by Gareth Thomas, Case Presenter
Facts proved by admission:	All
Fitness to practise:	Not impaired
Outcome:	Warning

Particulars of Allegation (as amended)

You, a registered pharmacist (Registration no: 2081489) whilst employed as a pharmacist at Well Pharmacy, Fountain Health Chester ("the Pharmacy"):

- 1. On 22 October 2022 processed a refund "(the transaction)" for pain relief pens.*
- 2. Your actions in paragraph 1 were dishonest in that you:*
 - 2.1. Processed the transaction for personal gain;*
 - 2.2. Processed the transaction yourself;*
 - 2.3. Were aware that company policy was that another member of staff should process the transaction;*
 - 2.4. Knew that you had not purchased the pain relief pens from the Pharmacy;*
- 3. On 22 October 2022, put the pain relief pens referred to above, into stock at the pharmacy.*
- 4. Your actions in paragraph 3 lacked integrity in that you:*
 - 4.1. Knew that the pain relief pens were likely to be sold;*
 - 4.2. Failed to consider whether they were safe to be sold.*

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

Documentation

Document 1- GPhC hearing bundle

Document 2- GPhC skeleton argument

Document 3- Registrant's bundle

Determination

Introduction

1. This is the written determination of the Fitness to Practise Committee at the General Pharmaceutical Council (the "Council").
2. The hearing is governed by *The Pharmacy Order 2010* ("the Order") and *The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010* ("the Rules").

3. The statutory overarching objectives for these regulatory proceedings are:
 - a. To protect, promote and maintain the health, safety and well-being of the public;
 - b. To promote and maintain public confidence in the professions regulated by the Council; and
 - c. To promote and maintain proper professional standards and conduct for members of those professions.
4. The Committee also has regard to the guidance contained in the Council's *Good decision making: Fitness to practise hearings and outcomes guidance* as revised March 2024.
5. A Principal Hearing has up to three stages:
 - Stage 1. Findings of Fact – the Committee determines any disputed facts.
 - Stage 2. Findings of ground(s) of impairment and impairment – the Committee determines whether, on the facts as proved, a statutory ground for impairment is established and, if so, whether the Registrant's fitness to practise is currently impaired.
 - Stage 3. Sanction – the Committee considers what, if any, sanction should be applied if the Registrant's fitness to practise is found to be impaired.

Application to admit further evidence

6. Mr Thomas made an application for the Committee to admit a further witness statement of Witness A. He submitted that:
 - a. The Council collected a further witness statement from Witness A following the Registrant's statement of 1 October 2024 in which he said:

"In or about May or June 2022 and whilst working as the branch pharmacist at WELL Chester Fountains, Chester Pharmacy the team leader and area manager informed the Pharmacy team that we had a few totes of items that could not be sold. These included items such as face wipes, cotton buds, aseptic preparations etc They also included pain-relieving non-pharmacological pen devices.

All members of staff received permission from senior management to freely share the items amongst ourselves for our own personal use. I took the three of the pens at this time."

The Council sought to clarify the Registrant's claims with a member of the Pharmacy, which the Council did through Witness A, consequently, the evidence was relevant and fair.

- b. The Council understands that this evidence was provided outside the time periods specified in Rule 18, but that there were exceptional circumstances to admit this evidence under Rule 18(5) given that the information was obtained expeditiously following receipt of the Registrant's statement of 1 October 2024.
- 7. The Registrant had read the further witness statement of Witness A, and did not oppose the application.
- 8. The Committee noted Rule 18(5) which sets out: *"Any document which has not been served on the secretary by the end of [No later than 9 days before the Monday of the week in which the hearing is to take place] is, except in exceptional circumstances, not to be admitted into evidence at the hearing."* Should the Committee consider that the *"exceptional circumstances"* have been met, then the evidence needs to be relevant and fair (Rule 24(2)).
- 9. The Committee accepted the application on the basis that:
 - a. *"exceptional circumstances"* had been met on the basis that the Council acted in an expeditious manner to obtain this information immediately after receipt of the Registrant's statement of 1 October 2024. Therefore, it would not have been possible for the Registrant to include Witness A's second witness statement in a bundle in accordance with Rule 18; and
 - b. Witness A's second witness statement is relevant and fair as it will allow the Council to verify the claims made by the Registrant and permit the Committee a fuller picture of the Registrant's claims.

Service of Notice of Hearing

- 10. The Committee has seen a letter dated 2 September 2024 from the Council headed *"Notice of Hearing"* addressed to the Registrant. The Committee was satisfied that there had been good service of the Notice in accordance with Rules 3 and 16.

Application to amend the particulars of allegation

- 11. The Committee heard an application from Mr Thomas under Rule 41 to amend the allegations as follows (additions in underline and removals in strikethrough):

You, a registered pharmacist (Registration no: 2081489) whilst employed as a pharmacist at Well Pharmacy, Fountain Health Chester ("the Pharmacy"):

1. On 22 October 2022 processed a refund "(the transaction)" for pain relief pens.

2. Your actions in paragraph 1 were dishonest/~~lacked integrity~~ in that you:

~~2.1. Knew that the pain relief pens were not the property of the Pharmacy;~~

~~2.2. Knew there was a likelihood that the pain relief pens were not the property of the Pharmacy;~~

2.3. Processed the transaction for personal gain;

2.4. Processed the transaction yourself;

2.5. Were aware that company policy was that another member of staff should process the transaction;

2.6. Knew that you had not purchased the pain relief pens from the Pharmacy;

~~2.7. Knew there was a likelihood that you had not purchased the pain relief pens from the Pharmacy.~~

3. On 22 October 2022, put the pain relief pens referred to above, into stock at the pharmacy.

4. Your actions in paragraphs ~~1 and~~ 3 lacked integrity in that you:

4.1. Knew that the pain relief pens were likely to be sold;

~~4.2. Knew that they were not the property of the pharmacy;~~

~~4.3. Did not reasonably believe that they were the property of the pharmacy;~~

4.4. Failed to consider whether they were safe to be sold.

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

12. On behalf of the Council, Mr Thomas submitted that the amendments are made to further accurately reflect the evidence, given:

a. the Registrant's indication in his submissions dated 1 October 2024 that he will be admitting to dishonesty when refunding the pens. Therefore, the lack of integrity at allegation 2 and allegation 1 (as reflected in allegation 4), which was pleaded in the alternative, falls away. Allegations 2.2, and 2.7 also support the lack of integrity.

b. It is not clear from where the pens originated. Therefore, it would be clearer if allegations 2.1, 4.2 and 4.3 were removed.

The proposed amendments are not based on new evidence and make the allegations clearer, and for those reasons, there will be no prejudice caused to the Registrant if the application is granted.

13. The Registrant did not oppose the application.

14. The Committee accepted that, subject to the requirements not to prejudice the fairness of these proceedings, the allegations should reflect the gravity of the Registrant's alleged conduct or behaviour (*PSA v HCPC and Doree [2017] EWCA Civ 319*). However, to introduce late an entirely new case requiring extensive investigation would potentially be unfair (*Bittar v FCA [2017] UKUT 82 (TCC)*). The Committee was of the view that the amendments to the allegations reflect the evidence following the Registrant's admissions on 1 October 2024, and make the allegations clearer. The amendments are not based on new evidence. Consequently, the amendments would not prejudice the fairness of these proceedings.

Background

15. The Pharmacy's risk and compliance team flagged a suspicious refund transaction due to items being refunded but never having been sold. CCTV was checked and showed the Registrant to be the user of a till at the Pharmacy in the morning of 22 October 2022, when a refund transaction was completed for three "*Paingone*" pain relief pens. The log in details for the transaction were not the Registrant's. The items were priced at £34.99, £49.99 and £49.99, totalling £134.97. This sum was "*refunded*" onto a credit card.
16. The Pharmacy provided a copy of its Security Rules (August 2022) to the Council. Under the headings "*Staff Purchases*" and "*Till and Cash Procedures*", the Rules state:
- "Under no circumstances should colleagues process their own transactions.*
- All transactions must be carried out by another colleague and the receipt signed as proof of purchase.*
- ...
- When using the till or in Control systems, colleagues must always use their personal sign on code or till job, without exception."*
17. The Registrant has provided the following accounts of what happened. In an Investigation Meeting with Witness A on 24 November 2022, he responded as follows:
- a. He confirmed that he was aware of all processes on the till. He had read the security rules but could not remember them;
 - b. He mentioned two examples where he completed a transaction or a refund when there was no customer present. However, he did not refer to the incident with the pens;
 - c. He said that he had served himself, but that colleagues make each other aware of such purchases;
 - d. When asked about 22 October 2022 and the pens, he said: "*My mum was diagnosed with diabetes, I purchased them so I returned them to the chemist.*" He

was repeatedly asked to confirm where he purchased the pens from and was unable to give a clear answer but said that he had acquired them in the last nine months;

- e. He then said: *"I can't be certain it was from my mum it could have been the GP etc."*
 - f. The Registrant accepted that he had received a financial gain from the transaction but denied that he ever *"aimed"* to get a financial gain: *"I thought these pens could be used with other people"*. He apologised and offered to pay back the money.
18. In a Disciplinary Hearing on 2 December 2022, when the Registrant was again asked how the pens came to be in his possession, he replied:
- a. *"I was doing an independent prescribing course and was given them by the GP but they were from a Well pharmacy [...] Yes from GP from spares and instructions purposes. It was for my mum who is type 2 diabetic and is worried about needing to use pens. I thought to bring them to Well for patients."*
 - b. He *"refunded"* as a card transaction because he *"thought that would make it come back in to supply but I knew that was wrong and not the right thing to do"*.
 - c. He said he put the stock in the stock room at the branch; when told that CCTV showed him putting the stock under the counter, he replied *"Yes, to use them"*. When told that they could not be resold, he said *"I made a wrong judgement. I don't know why I thought it could be re-used. I'm so sorry [...] It was not for financial contributions [sic]."*
19. In a document titled *"Report to General Pharmaceutical Council"* dated 21 December 2022, the Registrant stated:

"On 28th October, I did use not my till job and without the second member of the pharmacy team, I did an inappropriate refund for myself. I refunded the pain relief pens thinking that I purchased them from Well pharmacy. However, I obtained the products from the GP as a part of the free stock available for the patients during my independent prescribing practice. At the time of the transaction, I thought I obtained the stock from Well pharmacy.

[...]

The refund was done on Saturday morning when there was just me and another member of the staff due to staff shortage.

[...]

I want to reflect on my case. I could handle the situation differently. I could double-check where I did obtain the product. I was always under pressure and coming to deadlines, I did not focus enough on that aspect. It was my mistake. From now on, I will double-check everything relating to the till transactions.

[...]

By my behaviour, I breached two pharmacy professional standards:

1. Pharmacy professionals must behave professionally:

– act trustworthy and act with honesty and integrity

2. Pharmacy professionals must demonstrate leadership

– lead by example

The factors which influenced the breach were:

- staff shortage in the workplace*
- difficulties to follow the security rules due to increased workload and staff shortage*
- insufficient communication between the pharmacist and the pharmacy team members*
- lack of actions from the area manager after numerous conversations about the staff level and training gaps*
- weekend work rota*
- long hours work and 59h contract*
- not double-checking where I did obtain the products.”*

20. On 6 October 2023 the Council’s Case Officer wrote to the Registrant with draft allegations that included an allegation of dishonesty in that he (among other things) *“knew that you had not purchased the pain relief pens from Well”*. On 18 October 2023, the Registrant replied and confirmed that he had seen the documents and went on to say *“I agree with all allegations against me included in the letter from General Pharmaceutical Council dated 06/10/2023. I want to emphasise that I am extremaly [sic] sorry for what happened. I am sending my apologies for it. Moreover, I want to express that it will never happen again. I will accept your verdict and act according to your guidance.”*
21. On 23 October 2023, the Registrant sent through another letter expressing his remorse and outlining mitigation including:
- a. long hours work and 59h contract.
 - b. staff shortage in the workplace.
 - c. difficulties to follow the security rules due to increased workload and staff shortage.
 - d. all operational management fell on him due to inadequately qualified staff.
 - e. Insufficient management support.

The Registrant further set out that *“Furthermore, I considered to put the pain relief pens back to stock because they were unopened, unused, stored according to manufacturer [sic] requirements. I did not think that I could compromise patient's health and life in any way. It was not my intention to do any harm.”*

22. In a witness statement in preparation for these proceedings, dated 1 October 2024, the Registrant set out:

“In or about May or June 2022 and whilst working as the branch pharmacist at WELL Chester Fountains, Chester Pharmacy the team leader and area manager informed the Pharmacy team that we had a few totes of items that could not be sold. These included items such as face wipes, cotton buds, aseptic preparations etc They also included pain-relieving non-pharmacological pen devices.

All members of staff received permission from senior management to freely share the items amongst ourselves for our own personal use. I took the three of the pens at this time.

I subsequently returned these pens to the pharmacy a few months later and conducted a refund to myself in the total sum of £134.99. The refund transaction happened on a Saturday morning when I was working with one more work colleague. I performed the refund transaction myself and not in line with the SOP governing refunds/till operation. I was fully familiar with the procedures which should have been followed to enable staff to undertake purchases/refunds but quite often this was impracticable due to low staffing levels.

The outcome of my action is that I committed fraud in returning the pens as I made a financial gain for myself.

I returned the pens to stock without giving any real thought as to whether it was safe to do so although it was my belief at the time that the pens did not have an expiration date to them. That said this wasn't something which I had actually checked. I now recognise that my actions could have jeopardised patient safety.

Once challenged as to my behaviour in undertaking the refund I genuinely wanted to recompense Well for the monies I had dishonestly refunded. I made an offer to do so but this was not followed up by Well and I was subsequently advised not to engage in further dialogue/communication with them.

In an effort to ‘rectify’ the situation and to feel slightly better about myself I have ultimately donated the equivalent sum to the World Food Programme [of] £150 in total.

[...]

I now deeply regret my foolish actions and have reflected as to the impact which my behaviour will have had on my profession and the public as a whole."

Decision on Facts

23. The Registrant admitted to all the allegations. Consequently, pursuant to Rule 31(6), the admitted allegations were found proved.

Evidence and Submissions on Grounds and Impairment

24. Having found the particulars of allegation 1-6 proved, the Committee went on to consider whether they amounted to misconduct and, if so, whether the Registrant's fitness to practise is currently impaired.
25. Before the Committee, Witness A provided the following evidence:
- a. The Pharmacy's wastage system would mean that products would be checked to see if they were out of date or within 30-days of being out of date – if they were, those products would be physically removed and placed in a dupe box, collected by contractors and incinerated. This would allow the pharmacy to account for products which are out of date.
 - b. If there is no sell-by date on a product, but it is not being sold, these products will stay dormant until they get moved to another pharmacy.
 - c. The pens which the Registrant returned are unlikely to have had a sell-by date, but likely to have had a manufacturer's date (which sets out the product's shelf life). Witness A cannot say what the manufacturer's date was for the pens.
 - d. There is a company policy for out of date and clearance products. There is no policy for giving away free products. Witness A could not say for sure whether a manager has acted outside the policy by allowing staff members to have out of date or clearance products, but if a manager allowed this, it would be treated by the Pharmacy as theft and an internal investigation would be opened. All staff should know that this would be classified as theft.
 - e. Both types of pens returned by the Registrant should have been in stock at the Pharmacy.
 - f. When the pens were returned, they would have been put on the shelf underneath the till, which is out of sight from the customers. Eventually, these products would have been put back on the shelves. The boxes in which the pens were in were in good condition.
26. In relation to the misconduct, on behalf of the Council, Mr Thomas submitted that:

- a. The Registrant's decision to process a "*refund*" for items not purchased from the Pharmacy demonstrates very poor judgement because such a transaction was not a refund and it was not open to him in effect to sell items "*back*" to the Pharmacy on his own initiative and without (as a minimum) working in partnership with colleagues or managers. This breached the Standards for pharmacy professionals dated May 2017 ("Standards"), in particular Standard 2 (work in partnership with others) and Standard 5 (use professional judgement).
- b. The Registrant took money from the transaction to which he must have known he was not properly entitled. His actions also breached the Pharmacy's security procedures. His conduct was unprofessional, in breach of Standard 6 (behave in a professional manner).
- c. To the extent that the Registrant did not consider the possible impact of his actions on safety and efficacy of the pens (should they be sold through the Pharmacy), he did not demonstrate person-centred care, in breach of Standard 1 (provide person-centred care).
- d. When challenged about refunds through the till, the Registrant was slow to acknowledge his actions with the pens and advanced a series of conflicting and equivocal explanations that show a slowness to accept responsibility for his action, in breach of Standard 8 (speak up when they have concerns or when things go wrong).
- e. The Registrant's actions also represent breach of the trust placed in him by reason of his position as an employee and Pharmacist. The Registrant must have brought the pens into the Pharmacy and made the decision to transfer money onto his card. To that extent his actions (although not repeated) were pre-meditated and not purely opportunistic or "*a moment of madness*".

In all the circumstances, it is submitted that the Registrant's actions fell far below standards and would be considered deplorable by fellow Pharmacy professionals and the public.

27. In relation to impairment, on behalf of the Council, Mr Thomas submitted:

- a. The Registrant put his interests above those of patients and acted dishonestly. He has breached fundamental principles of the Pharmacy profession and has brought or might bring the profession into disrepute.
- b. Although there is no evidence that any patient was harmed by his actions on 22 October 2022, and the risk of harm was potential rather than actual, the Registrant's attitude in respect of safety of items in the supply chain has been shown to be poor.
- c. The Registrant's dishonesty in breach of a position of trust, and his equivocation about the circumstances after the event, tend to suggest his integrity cannot be relied on. Although he has repeatedly expressed remorse for his actions and drawn

attention to what may amount to mitigating factors, the Registrant's insight into what led him to act dishonestly and be slow to admit to his wrongdoing remains incomplete.

d. The Registrant is lacking insight in that:

- i. His decision not to give evidence on misconduct and impairment is incompatible with no longer being impaired.
- ii. The mitigating factors set out by the Registrant at paragraph 21 above, do not explain why the Registrant engaged in dishonest conduct for c. £135.
- iii. Allegations 3 and 4 demonstrate an attitudinal risk. The Registrant has provided a number of different explanations of what happened, and a number of different ways in which he obtained the pens. On this evidence, the Committee cannot be reassured that the Registrant's attitude can yet be relied upon, despite making charitable donations.
- iv. The pens were of high value and the Registrant attempted to get the cash value of products that he did not pay for.
- v. However, Witness A provided evidence that the boxes of the pens were in good condition and had not been tampered with; this may lessen the risk to patients of restocking the pens. However, by his own admission, the Registrant did not consider the potential risk to patients from restocking the pens.

28. In relation to the misconduct, the Registrant submitted, by virtue of his proposed admissions to the allegations, his conduct amounted to a breach of the professional standards. However, the Registrant submits that the seriousness of the misconduct can be lessened as it was a one-off transaction involving a relatively low amount.

29. In relation to current impairment, the Registrant submitted that he has cured his previous impairment due to:

a. Previous Good Character.

b. Reflection. In a reflective statement dated 1 October 2024, the Registrant set out:

"I thought about returning these pens to contribute financially. I was motivated by greed. In reality, it cost me losing my work, my colleagues, financial insecurity and stressful recruitment and employment. It was the worst life decision. The consequences of my actions are massive and influence almost all aspects of my life, including sleep patterns, my relationship with my partner and my friendships, family life and self-worth. I realised how badly this situation affected me.

I should have followed the company safety procedures. The safety procedures protect us from potential risks or problems. I realised that I

breached them. Therefore, I need to take full responsibility for my actions.

I did not give a real thought on putting anyone at risk by returning the pain-relieving pens. I did not let the management of what I did. I just left the devices in the chemist under the front counter. I need to admit that was not a great thought process. Even though, the devices were not open, used and were stored in the room temperatures, the patients could have objections on using the devices which I returned due to ethical matters and pharmaceutical standard bases. They could feel that these devices are used or compromised and therefore, they would not work correctly. This could give the false feeling or results regarding the treatment. They could also feel that the pharmacist (and pharmacy as a company) failed them by not keeping the right standard on every occasion. This could be a public relation issue for the pharmacy as a company and the whole sector. This behaviour would be seen as scandalous, unacceptable, outrageous, shameful and demoralizing. It could impact the patient perception of the pharmacy as a health organisation and affect the health and life of many people."

- c. Insight. In a reflective statement dated 1 October 2024, the Registrant set out:

"This action was shameful, disgraceful, degrading and dishonourable. It should never have happened at all. I disrespected my company (Well Pharmacy). I did not follow the company safety procedures. I let down my patients and my work colleagues. I breached professional standards, my personal beliefs and core values. I failed the public trust and my future. I contributed financially in these circumstances.

I failed my pharmacy team by breaching the trust and their faith in me. I undermined my leadership as a branch pharmacist. I failed my senior management who supervised me hoping that I would be a great example for high professional standards. Definitely, they were shocked and disgusted by my behaviour. They could feel that I am not a pharmacist that they were hoping for. They could question all my previous actions and intentions. They could disbelieve what has happened and why. They could have more questions and doubts. They could feel that my professional performance does not fit to purpose. They could also think that I am a fraud, crook, imposter and trickster.

They could feel that they did not want to work with me in the same team. The members of the public could decide not to use the chemist where I could work or have a very negative evaluation of my skillset, knowledge and behaviours. They could have objections to proceed making the till transactions, providing the services or dealing with the customers in general. They would also feel disgusted, resentful and

indignant. I did this inappropriate transaction due to greed. Therefore, I feel terribly sorry for my actions and the impact caused.

[...]

I learnt that I should have never done what I did. My approach towards money was inappropriate. I prioritised financial benefits against personal values. I needed to change my life approach and prioritise my beliefs and values in general.

I did not follow company procedures at the time of my actions and used a colleague's job to undertake the transaction. I knew that this was not in line with operational standards. In doing so I did not give any thought to the possibility that my actions could lead to my colleague being accused of any serious wrong doing or dishonest behaviour and I am truly sorry for that although this was never my intention in using someone's else till job. I did so out of convenience but without thinking of the potential longer-term consequences of my actions.

I did tell my then colleagues at the time of my dismissal what I had done.

As a result of my actions Well lost a pharmacist and it's branch clinical lead and had to find a replacement. The pharmacy team I supported/managed lost its regular pharmacist which will have increased work pressures on them and impacted upon service provision and service availability. My actions could have led to patients of the pharmacy seeking the services of an alternate pharmacy. Well could face further disruption due to lowering staff morale etc.

By my behaviour, I broke pharmacy professional's standards. I did not work in partnership with others because I broke the trust of my work colleagues and management. I did not use professional judgement to assess the situation and analyse all implications of my bad decision. I did not behave in a professional manner because I crossed the ethical line and caused distress, distrust and hurt feelings of members of public, my staff, my management, my family, my partner and my friends. I definitely did not show the good example of the leadership, especially being the clinical and governance lead for this pharmacy branch. I also did not think about the patient-centred care in case of patients who could potentially buy these devices. I breached the patient confidence and trust by doing that. Once more time, I want to say I am terribly sorry and I promise that would never happen again."

- d. Admissions and remorse. In a reflective statement dated 1 October 2024, the Registrant set out:

"I felt that I was committing a crime against the law during my action. I was ashamed inside. I was disappointed in myself. I got frustrated with myself and very unhappy. I thought that these emotions would pass. They did not. Looking back, I strongly feel that only by telling the truth and repenting for my deed, I can deal with these emotions."

- e. Corrective action involving charitable donation. In a reflective statement dated 1 October 2024, the Registrant set out:

"I changed my approach to money completely. Now, I admit I have a healthy relationship with finances. I achieved that by frequent mindfulness sessions, and more time with my partner, family and friends."

Secondly, my conclusion is that I will always follow the organisation's safety procedures. In case of doubt or discrepancies, I will consult and follow the advice of the senior management. Moreover, I will always take any action in relation to money with the second witness and document the outcome as soon as possible. I think these circumstances allow me to show everyone I can become a better pharmacist. I am sure I will not fail people who have faith in me, my current work colleagues and patients. I hope I will regain the trust of people who I failed. I know I need to deal with my past to move fully towards the future. I was honest and transparent with my current employer. I sent complete documentation to them before hiring me. I realised that I needed to be more assertive and vocal."

In general, I would report all company failures to address the issues which could lead to this situation. I also moved from the community pharmacy setting towards the hospital pharmacy. Therefore, the stress level is minimal compared to the community pharmacy. I realised how stress levels affected me negatively and how better I feel now in my current workplace. I proactively tried to reach Well Pharmacy during the consultation period to give money equivalent back. There was no response. Therefore, I decided to participate in the World Food Programme to give back this money to charity causes. I thought this would be a way to close the case related to owning money."

- f. References speaking of his prior and subsequent performance. The Registrant has provided ten references, seven of which note that they have been informed of the allegations against him.
- g. No further repetition of the admitted behaviour.

30. Before the Committee, the Registrant submitted:

- a. He has provided different version of what happened because when he was caught, he panicked. His actions were disgraceful and he was very afraid. Consequently,

he did not give a clear indication of what happened. It was the stupidest decision of his life and he regrets it every minute. Therefore, to make things right, he has now set out from where he obtained the pens and has fully complied with the fitness to practise proceedings. He apologised and said that his actions have not been worth it.

- b. The mitigating factors set out above at paragraph 21 were not a contributing factor to his action, but the Registrant just wanted to provide context to explain where he was at the time. He fully accepts responsibility for his actions, which were based on his own decisions. He has breached his own values.
- c. He has completely changed his attitude to money. Previously he was money driven, but when this incident happened, he has changed his approach from working all the time to accommodate a better work/life balance.

Decision on Grounds

- 31. The Committee took account of the guidance given to the meaning of *“fitness to practise”* in the Council’s publication *“Good decision-making”* (Revised March 2024).
- 32. The Committee accepted and applied the following definition of *“misconduct”*:

“...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 practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word ‘professional’ which links the misconduct to the profession. Secondly, the misconduct is qualified by the word ‘serious’. It is not any professional misconduct which will qualify. The professional misconduct must be serious.”
- 33. The Committee also took into account the observation of J Collins in *Nandi v GMC [2004] EWHC 2317 (Admin)* that: *“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.”*
- 34. The Committee considered that Registrant’s actions reached the threshold of misconduct due to the following actions of the Registrant:
 - a. The actions were planned and not an impulse decision. The Registrant had the pens for some months and made the decision to bring the pens into the Pharmacy on the morning of 22 October 2022. The Registrant demonstrated poor judgement when he *“refunded”* the money to himself with knowledge that he never paid for the items in the first place, and therefore was not entitled to the money. Further, by doing so, he breached the trust of the Pharmacy.

- b. The Registrant knew what the rules were for returning items and using fobs. He bypassed these rules. Further, by using someone else's fob to complete the actions set out in allegation 1, the Registrant could have led to someone else being investigated for an action they did not commit. He did not consider the impact of his actions on his colleagues.
 - c. The Registrant did not consider the possible impact of his actions on safety and efficacy of the pens when he returned them with the expectation that the Pharmacy would resell them.
 - d. When questioned about the actions set out in the allegations, the Registrant was not candid in either the first or the second account of events that he gave.
- 35. The Committee considered that the Registrant's explanation of how he obtained the pens goes to his ability to truthfully explain what happened. The Committee had the following evidence before it to determine how the Registrant obtained the pens. The Registrant said that he obtained the pens as the Pharmacy team leader and area manager gave permission to the Pharmacy team that they could freely share amongst themselves, for their personal use, tote items that could not be sold. The pens were included in these tote items, and the Registrant helped himself to them. Witness A said that there was no policy for giving away free products. However, Witness A could not say for sure whether a manager had acted outside the policy by allowing staff members to have out of date or clearance products. The Committee considered that Witness A's evidence allows the possibility that the Registrant's explanation of how he obtained the pens to be possible. Consequently, the Committee considered that the pens could have been obtained as set out by the Registrant.
- 36. The Registrant's actions, as set out in the allegations, damage public confidence in the profession, as it would convey a degree of opprobrium to the ordinary intelligent citizen (*Shaw v General Osteopathic Council [2015] EWHC 2721 (Admin)*).
- 37. The Committee considered whether the Registrant had breached any of the Council's Standards. The Committee determined that there had been a breach of the following Standards as a result of the misconduct:
 - a. Standard 1 – Pharmacy professionals must provide person-centred care, for the reasons set out in paragraph 34(c);
 - b. Standard 2 – Pharmacy professionals must work in partnership with others, for the reasons set out in paragraph 34(b);
 - c. Standard 5 – Pharmacy professionals must use professional judgement, for the reasons set out in paragraph 34(a-d);
 - d. Standard 6 – Pharmacy professionals must behave in a professional manner, for the reasons set out in paragraph 34(a-d); and
 - e. Standard 8 – Pharmacy professionals must speak up when they have concerns or when things go wrong, for the reasons set out in paragraph 34(d).

38. The Committee bore in mind that the Standards may be taken into account when considering the issues of grounds and impairment but that a breach of the Standards does not automatically establish that the Registrant's fitness to practise is impaired (Rule 24(11)).
39. Accordingly, the Committee concluded that, in its judgement, the grounds of misconduct are established.

Decision on Impairment

40. Having found that the particulars of allegation amounted to misconduct, the Committee went on to consider whether the Registrant's fitness to practise is currently impaired.
41. At the outset, the Committee considered the Registrant's insight, remorse, and remediation.
42. The Committee considers that the Registrant had developed full insight. Albeit nearly two years after the misconduct set out in the allegations, the Registrant has provided a full understanding of what happened and why. As set out in paragraph 29(c), the Registrant has reviewed his own conduct, admitted to all the misconduct, recognised that he should have behaved differently in the circumstances being considered, and he understands the consequences of his actions on his colleagues, workplace, patients, the public, the pharmacy profession and the trust that is placed in him.
43. The Committee considers that the Registrant has shown full remorse, given:
 - a. His continual apology for the misconduct, both before and during the Principal Hearing. His apology extends to all those affected by his misconduct;
 - b. The offer to repay the Pharmacy for the cost of the pens; and
 - c. His charitable donations above the value of the pens.
44. The Committee considers that the Registrant has completed full remediation. Since the allegations, the Registrant obtained employment as a locum hospital pharmacist, following which he was offered a substantive role. He has been working without incident since the date of the allegations. He has been open with his employer and character referees of the fitness to practise proceedings that he was facing.
45. The Committee considered whether the particulars found proved show that actions of the Registrant:
 - a. present an actual or potential risk to patients or to the public;
 - b. have brought, or might bring, the profession of pharmacy into disrepute;
 - c. have breached one of the fundamental principles of the profession of pharmacy;or

d. mean that the integrity of the Registrant can no longer be relied upon.

Whether the Registrant's conduct or behaviour present an actual or potential risk to patients or to the public

46. The Committee considers that the Registrant's conduct or behaviour no longer presents an actual or potential risk to patients or to the public due to:
- a. The full insight demonstrated, the full remorse shown and the full remediation completed.
 - b. The Registrant has said that he is no longer financially driven and that he has changed his approach to money. In any case, the Committee considers that if the Registrant was financially driven, there would have been more occasions where similar misconduct would have taken place (rather than a single isolated event) and the value of the items would have been higher.
 - c. The Committee considers that these proceedings have been a salutary experience for the Registrant, which further reduces the risk of repetition.
 - d. He has been practicing without incident since the date of the allegations, in roles which require significant responsibility.
47. Furthermore, it is in the interest of the pharmacy profession to retain good pharmacists that do not pose an actual or potential risk to patients or to the public. The Registrant has been nominated and won awards for his work and has received references of high praise since the date of the allegations.

Whether the Registrant's conduct or behaviour has brought, or might bring, the profession of pharmacy into disrepute

48. The Committee considered that the Registrant's misconduct has brought the profession of pharmacy into disrepute in that the Registrant failed to act with honesty and integrity.
49. However, given the full insight demonstrated, the full remorse shown and the full remediation completed, and that the Registrant no longer presents an actual or potential risk to patients or to the public, the Committee considers that the Registrant's conduct or behaviour is unlikely to bring the profession of pharmacy into disrepute in the future.

Whether the Registrant's conduct or behaviour have breached one of the fundamental principles of the profession of pharmacy

50. The Committee considered that the Registrant's conduct and behaviour has breached fundamental principles of the profession of pharmacy, namely the requirements to act with honesty and integrity.
51. However, given the full insight demonstrated, the full remorse shown and the full remediation completed, and that the Registrant no longer presents an actual or potential risk to patients or to the public, the Committee considers that the

Registrant's conduct or behaviour is unlikely to breach one or more of the fundamental principles of the pharmacy profession in the future.

Whether the Registrant's conduct or behaviour show that the integrity of the Registrant can no longer be relied upon

52. Given the full insight demonstrated, the full remorse shown and the full remediation completed, and that the Registrant no longer presents an actual or potential risk to patients or to the public, the Committee considers that the Registrant's integrity can now be relied upon. In particular, the Committee considers that, as of 1 October 2024, the Registrant has provided a full understanding of what happened and why.

Committee's conclusion on impairment

53. In light of the above, the Committee considered the Registrant's fitness to practise is no longer impaired on the personal element.
54. Further, the Committee considered that members of the public would no longer be concerned to learn that a pharmacist who had demonstrated full insight, shown full remorse and fully remediated their practice, was no longer considered to be impaired. Consequently, the Committee considered the Registrant's fitness to practise is no longer impaired on the wider public interest element, namely maintaining public confidence in the pharmacy profession and upholding professional standards.
55. However, the Committee considers that dishonesty is serious enough for the Registrant's conduct to be marked and that a warning will be sufficient to achieve this outcome. The Committee warns the Registrant as follows:

"The Committee has found that:

You, a registered pharmacist (Registration no: 2081489) whilst employed as a pharmacist at Well Pharmacy, Fountain Health Chester ("the Pharmacy"):

1. On 22 October 2022 processed a refund "(the transaction)" for pain relief pens.

2. Your actions in paragraph 1 were dishonest in that you:

2.1. Processed the transaction for personal gain;

2.2. Processed the transaction yourself;

2.3. Were aware that company policy was that another member of staff should process the transaction;

2.4. Knew that you had not purchased the pain relief pens from the Pharmacy;

3. On 22 October 2022, put the pain relief pens referred to above, into stock at the pharmacy.

4. Your actions in paragraph 3 lacked integrity in that you:

4.1. Knew that the pain relief pens were likely to be sold;

4.2. Failed to consider whether they were safe to be sold.

The Committee has decided that your fitness to practise is not currently impaired, taking into account your remorse, remediation and full insight. However, the Committee has decided that there does need to be a public acknowledgement that your conduct was unacceptable. The Committee has therefore decided to issue a warning in this case.

The warning is as follows:

The Council's Standards require that pharmacy professionals behave with honesty and integrity.

You have been found, by your own admission, to have acted without honesty and integrity when 'returning' therapeutic pens to the pharmacy in which you worked with the knowledge that you had never purchased them from there in the first place. The act was unacceptable, unprofessional and falls below the standards acceptable for a registered pharmacy professional. Your actions brought the profession of pharmacy into disrepute and breached one of the fundamental tenets of the pharmacy profession.

You have remediated your misconduct and do not pose an ongoing risk to the public or are impaired in the wider public interest of declaring and upholding standards and maintaining public confidence in the profession.

The Committee has considered the representations of the Registrant and is of the view that a warning is required to stand as a reminder to the Registrant of the importance of behaving in a professional manner at all times, in particular to act with honesty and integrity. Such actions may negatively affect the reputation of pharmacy professionals and must not be repeated.

This warning will be published on the register and will be available for 12 months. If you do not comply with this warning, it may be taken into consideration by an Investigating or Fitness to Practise Committee in the future."

56. This concludes the determination.