

**STATUTORY COMMITTEE OF THE PHARMACEUTICAL SOCIETY OF NORTHERN
IRELAND**

In the matter of: Heather Trueick (2448 R)

Location: As a result of restrictions brought about by the coronavirus (COVID-19) pandemic, and by the agreement of the parties to the proceedings, the hearing was held remotely via Zoom video conferencing

Date: 13th, 14th, and 16th October 2020

Committee: Mr Gary Potter (Chair), Ms Edell Fitzpatrick (Lay), Ms Frances-Ann Archibald (Registrant)

Persons Present and Capacity: Ms Heather Trueick (Registrant), Mr Ivor McAteer, QC, instructed by Carson McDowell Solicitors (Registrant's Legal Representatives), Mr JonPaul Shields, Barrister, instructed by CFR Solicitors (PSNI's Legal Representatives)

Service

1. The Committee satisfied itself that service of the Notice of Hearing was properly effected. The Notice of Hearing, dated 14 May 2020, was sent to the Registrant's registered address on the same date. This was more than the 35 days' notice required to be given under regulation 18 of The Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (NI) 2012 ('the Regulations').

2. The Committee heard allegations of misconduct in respect of Ms Heather Trueick, a registered pharmacist (the Registrant). The Registrant was in attendance and was represented by Mr Ivor McAteer, QC. The Pharmaceutical Society of Northern Ireland (the Society) was represented by Mr Jonpaul Shields, Barrister.
3. The Committee had a hearing bundle numbering page 1 to page 410. In the course of the hearing, the Committee admitted in evidence the following documents;
 - Exhibit 1: Statement of Case dated 02 October 2020
 - Exhibit 2: Registrant's Response to the Statement of Case dated 07 October 2020
 - Exhibit 3: Fitness to Practise Statement of Case, by the Pharmaceutical Society NI dated 09 October 2020

PRELIMINARY LEGAL ARGUMENT

4. The Committee considered an application by both parties to the proceedings to amend the particulars of the allegations set out in the Notice of Hearing, pursuant to Regulation 43 of the Regulations. After consideration of the matter and hearing submissions from the parties, the Committee agreed to grant the application to amend the allegations.

ALLEGATIONS

5. The Registrant faced the following amended allegations:

It is alleged that your fitness to practise as a registered pharmacist may be impaired, pursuant to Paragraph 4(1)(a) of Schedule 3 to the Pharmacy (Northern Ireland) Order 1976 by reason of misconduct identified by the Scrutiny Committee.

The particulars of the alleged misconduct, giving rise to possible impairment of fitness to practise, are set out as follows. Namely:

That you, as a director of Wynrose Limited, and holding the role of superintendent pharmacist for that company, and having effective control over the business:

1. On or between 22nd July 2012 and 22nd September 2016, having taken on pre-registration trainees, failed to ensure that the business was organised or operated in such a way that the Pharmaceutical Society of Northern Ireland's requirements and conditions for pre-registration training were adhered to and observed.

2. On or between 22nd July 2012 and 22nd September 2016, managed the business in such a way that trainees were not placed with accredited tutors in accordance with the Standards for Pre-Registration Training (July 2012), adversely impacting the ability of the designated tutors to properly carry out their function.

3. On or between 22nd July 2012 and 22nd September 2016, managed the business in such a way that trainees, tutors and the employer were not able to comply with the Standards for Pre-Registration Training (July 2012), thereby undermining the pre-registration training programme.

4. Fundamentally failed in your duty to Trainee B, in the supply and provision of a placement for the purposes of providing pre-registration training, causing harm to him and in particular that he was required to undertake additional training in order to validate his pre-registration training.

5. Fundamentally failed in your duty to Trainee D, in the supply and provision of a placement for the purposes of providing pre-registration training, causing harm to him and in particular that he was required to undertake additional training in order to validate his pre-registration training.

6. On and between 31st July 2014 and 11th May 2015, failed to properly or adequately respond to, or address, concerns expressed by Trainee C to the pharmacy manager at the Four Winds Pharmacy that Tutor G should have been working with him on a full time basis as tutor and that he was not.

7. Knowing that the pre-registration training arrangements for Trainee E were not adequate and did not comply with the Standards for Pre-Registration Training (July 2012), you continued to place Trainee E in Campbell's Pharmacy rather than McFadden's Pharmacy as requested by his designated tutor, Tutor F, in breach of the Standards for Pre-Registration Training (July 2012).

8. On and between 14th April 2019 and 1st May 2019, you failed as superintendent of Wynrose Limited to ensure that the Pharmacy Record at Rosetta Pharmacy was properly maintained pursuant to Section 72A(5) of the Medicines Act 1968.

9. On 2nd May 2019, you caused, allowed or permitted prescription medication to be dispensed from Rosetta Pharmacy other than under the control and supervision of a pharmacist as the dispensing occurred at a point in time when the pharmacy notified as being closed due to the unavailability a pharmacist.

10. On 24th May 2019, other than under the control and supervision of a pharmacist, you permitted deliveries of medicines (namely and in particular controlled drugs and prescription only medication) to be received at Rosetta Pharmacy.

11. For the purposes of Paragraph 1(3) of Schedule 3 to the Pharmacy (Northern Ireland) Order 1976 as amended and Regulation 26(11) of the Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012, the following principles and obligations (contained in the Pharmaceutical Society of Northern Ireland's Code of Ethics (2009)) are regarded by the Pharmaceutical Society of Northern Ireland as relevant to the proceedings. Further, the Pharmaceutical Society of Northern Ireland alleges that you are in breach of these principles and associated obligations by reason of the misconduct particularised above.

- *The general principle of registration as a pharmacist that requires you to act to promote and maintain public confidence in the pharmacy profession.*
 - *Principle 1 – make the safety and welfare of patients your prime concern and in particular obligation 1.1.*
 - *Principle 4 – exercise professional judgement in the interests of patients and public and in particular obligations 4.1, 4.2 and 4.3.*
 - *Principle 6 – maintain and develop professional knowledge and competence and in particular obligation 6.3.*
 - *Principle 7 – act with honesty and integrity and in particular obligations 7.1, and 7.2.*

- *Principle 8 – provide a high standard of practice and care at all times and in particular obligations 8.1, 8.5, 8.6, and 8.13.*

12. For any particularised conduct which occurred after 1st March 2016, the following principles and standards (contained in the Pharmaceutical Society of Northern Ireland's Code of Professional Standards of Conduct, Ethics and Performance for Pharmacists in Northern Ireland (2016)) are regarded by the Pharmaceutical Society of Northern Ireland as relevant to the proceedings. Further, the Pharmaceutical Society of Northern Ireland alleges that you are in breach of these principles and associated standards by reason of the misconduct particularised above.

- *Principle 1 – Always put the patient first.*
- *Principle 1 - standard 1.2 – Uphold the duty of candour and raise concerns appropriately and in particular standards 1.2.1, and 1.2.7.*
- *Principle 2 - standard 2.1 – Provide safe, effective and quality care and in particular standard 2.1.6.*
- *Principle 3 - standard 3.1 – Act with honesty and integrity at all times and in particular standards 3.1.1, 3.1.2, 3.1.6, and 3.1.7.*

13. By your acts and / or omissions, it is alleged that you have:

- a) created a risk to the safety of patients,*
- b) brought the profession into disrepute,*
- c) failed to maintain public trust and confidence in your profession*
- d) failed, on a professional basis, to observe the principles set out above.*

FACTS

6. The Registrant accepted the portion of the Society's Statement of Case, Exhibit 1, entitled 'Background information', as the factual matrices which form the elements of the charges laid. The relevant section of Exhibit 1, outlined the following;

Background information -

1. The Registrant first registered as a pharmacist with the Pharmaceutical Society of Northern Ireland in 1988.

2. Since 2nd April 2003, following its incorporation, the Registrant has been the Superintendent Pharmacist for Wynrose Limited. She has been the company secretary and a director of Wynrose Limited since 2003.

3. During the relevant period (between 22nd July 2012 until 24th May 2019) there were four pharmacies within the Wynrose group.

4. Allegations 1 - 7 relate to the registrant's organisation, supervision and management of the pre-registration training of student pharmacists within the Wynrose group.

5. After a person obtains an appropriate degree, they may register with the Society as a Student pharmacist. To become registered on the Register of Pharmaceutical Chemists, a student pharmacist must, amongst other things, satisfactorily undertake and complete pre-registration training for a period of 12 months and pass a pre-registration exam.

6. The Standards for Pre-registration Training (2012) ("the Standards") govern how the pre-registration training programme is to operate, set the minimum standards to be met, and identify the responsibilities and obligations of the employer, the tutor and the trainee.

7. The statements of Daniel Young and Trevor Patterson set out the essential elements of the pre-registration training programme.

8. Allegations 8 - 10 relate to the management of one pharmacy within the Wynrose group, namely Rosetta Pharmacy. These allegations relate to how the premises was managed between 15th April 2019 and 24th May 2019.

Allegations:

9. With respect to five identified pre-registration trainees, the pre-registration training provided by Wynrose Limited was deficient and did not comply with the Standards for Pre-registration Training (2012).

10. The registrant is responsible for the deficiencies in the pre-registration training delivered by Wynrose Limited.

11. The registrant was aware of the Standards for Pre-registration Training and knew what was required by the Standards, as she was, at the relevant time, herself a tutor. She had, in the case of Trainee A, signed the employer's declaration acknowledging the obligations and responsibilities of an employer.

12. As the person in control of Wynrose Limited, and as directing mind of the company, she was responsible for how the company was organised, managed and operated. She was responsible for the deployment of staff, and the placement of trainees.

13. As superintendent, she was legally responsible for the operation and management of the company.

14. Having taken on trainees, she was responsible for ensuring that the training was adequate and complied with the Standards. She was also responsible for ensuring that the business was organised and managed in such a way that the training programme could be properly and effectively delivered.

15. The registrant failed to ensure, or failed to ensure that the business was operated in a way that permitted, compliance with the Standards in the following ways with respect to the five trainees -

RE: Trainee A -

(i) Trainee A was not supervised at all by her nominated tutor, Tutor F, between 23rd July 2012 and 30th September 2012.

(ii) Trainee A was not located at McFadden Chemists, as notified to the Society, during this period.

(iii) Trainee A was not supervised at all by her nominated tutor, Tutor H, between 27th May 2013 and 5th July 2013.

(iv) Trainee A was not supervised at all by her nominated tutor, Heather Trueick, between 5th July 2013 and 23rd July 2013.

(v) The registrant signed off Trainee A's final appraisal notwithstanding the fact that registrant had not supervised her.

RE: Trainee B -

(i) From 18th November 2013, or thereabouts, throughout the period until 8th July 2014, Trainee B was not under the personal supervision of his designated tu-tor, Tutor F.

(ii) Trainee B's tutor was based at McFadden's Pharmacy, Duncairn Gardens, Belfast. However, Trainee B was based at Campbell's Pharmacy, William Street, Lurgan.

(iii) Two appraisals were completed by Tutor F and submitted notwithstanding the lack of personal supervision of Trainee B's practice.

(iv) Following a change of tutor notification, from 9th July 2014 until 24th August 2014, Tutor G personally supervised Trainee B for one and a half days per week rather than the minimum of 30 hours / 4 days per week.

RE: Trainee C -

(i) Between 31st July 2014 and 11th May 2015 Trainee C was with his tutor, Tutor G, 2 days per week, rather than the minimum of 30 hours / 4 days per week.

(ii) For the remainder of the time, Trainee C was not personally supervised by a pharmacist acting in the role of tutor or recognised by the Society as such.

(iii) The Society was not informed about this arrangement and the tutor completed and submitted appraisal forms notwithstanding the fact that Trainee C was only routinely personally supervised by his tutor for two days a week for the majority of his pre-registration training.

RE: Trainee D -

(i) Between 1st September 2015 and 5th July 2016, Trainee D was with his nominated tutor, Tutor H, one day per week, rather than the minimum of 30 hours / 4 days per week.

(ii) Trainee D, during this time, worked 4 days per week at Four Winds Pharmacy and one day per week at Rosetta Pharmacy. Tutor H, as tutor, was based at Rosetta Pharmacy and was only able to personally supervise Trainee D's practice when he was physically present in Rosetta Pharmacy.

RE: Trainee E –

(i) Trainee E's nominated tutor, Tutor F, was based at McFadden's Pharmacy, Duncairn Gardens, Belfast where he was the managing pharmacist.

(ii) Between 6th July 2015 and 5th July 2016, Tutor F worked with Trainee E for approximately 1 day per week in Belfast for the majority of his training. Otherwise, Trainee E was placed in the Lurgan Pharmacy, approximately 4 days per week.

(iii) Tutor F worked with Trainee E, and was able to directly supervise him, for 57 days, equating to approximately 11 weeks.

13. The business was not organised or operated in a way that allowed the pre-registration training programme to be delivered satisfactorily and in accordance with the Standards.

14. Trainees were not placed with their nominated, accredited, tutors in accordance with the Standards for Pre-Registration Training. In general terms trainees were routinely not placed with their designated tutors for extended periods of time, or were placed with them for an insufficient period. This adversely impacted the ability of the tutors to properly carry out their function.

15. Further, the business was managed in such a way that trainees, tutors and the employer were not able to comply with the Standards for Pre-Registration Training thereby undermining the integrity of the pre-registration training programme.

16. Specific harm was caused to Trainee B by the actions of the registrant in relation to the supply and provision of a placement for the purposes of providing pre-registration training. Trainee B was made the subject of an interim order on 26th January 2017 which was discharged on 29th May 2018. Trainee B was required to undertake additional training in order to validate his pre-registration training.

17. Specific harm was caused to Trainee D, by the actions of the registrant in relation to the supply and provision of a placement for the purposes of providing pre-registration training. Trainee D was made the subject of an interim order on 22nd December 2016 which was discharged on 26th June 2017. Trainee D was required to undertake additional training in order to validate his pre-registration training.

18. Trainee A was referred by the Registrar to the Statutory Committee to consider whether an interim order was necessary in her case. The Committee was satisfied that, particularly in light of the evidence presented by Trainee A, it was not necessary to make an interim order with respect to her. This decision was made on 21st December 2016.

19. Trainee C was not registered with the Society at the relevant time and was not subject to any process by the Society.

20. Trainee E was obliged to extend his pre-registration training period and complete an additional 6 months of pre-registration training, at another pharmacy, finishing on 6th June 2017.

21. *The registrant failed to properly or adequately respond to, or address, concerns expressed by Trainee C about the terms of his placement. These concerns, that Tutor G should have been working with him on a full time basis as tutor and that he was not, were raised with the pharmacy manager at the Four Winds Pharmacy. Trainee C believed that the registrant had been informed about the matter and was aware of it.*

22. *From at least May 2016, the registrant was aware that the pre-registration training arrangements for Trainee E were not adequate and did not comply with the Standards for Pre-Registration Training. The tutor, Tutor F raised the matter with the registrant and had requested that Trainee E work with him on a full time basis. Notwithstanding this, the registrant permitted Trainee E to be routinely placed in Campbell's Pharmacy rather than with his tutor at McFadden's Pharmacy in breach of the Standards for Pre-Registration Training.*

23. *A further investigation was initiated by Canice Ward, Pharmacy Inspector, and Head of the Medicines Regulatory Group in April 2019. This related to one pharmacy within the Wynrose group, namely Rosetta Pharmacy.*

24. *As a result of inspections undertaken, it was discovered that -*

(i) The Responsible Pharmacist Log was not properly maintained, between 14th April 2019 and 1st May 2019

(ii) On 2nd May 2019 prescription medication was dispensed from Rosetta Pharmacy other than under the control and supervision of a pharmacist. The registrant had notified the HSCB that the pharmacy was closed on this date. The pharmacy's Patient Medication Record (PMR) had been completed as showing that dispensing had occurred on 2nd May 2019 at a point in time when the pharmacy was notified as being closed due to the unavailability of a pharmacist.

(iii) On 24th May 2019, records showed a delivery of medicines (including controlled drugs and prescription only medication) had been received by the pharmacy. The HSCB had been notified that the pharmacy was closed on this date. The receipt of this medicine into the pharmacy was done other than under the control and supervision of a pharmacist.

DECISION ON FACTS

7. As the Registrant accepted the facts as set out in paragraph 6, the Committee found the facts proved by reason of that admission under Regulation 34(6) of the Regulations.
8. Accordingly, the Committee found the allegations proved.
9. The Committee then moved to consider the issue of impairment of Fitness to Practise. The Committee received a Fitness to Practise Statement of Case, by the Pharmaceutical Society NI dated 09 October 2020, which appears as Exhibit 3, and oral submissions on behalf of the Society from Mr Shields, and oral submissions from Mr McAteer QC on behalf of the Registrant.

DECISION ON IMPAIRMENT OF FITNESS TO PRACTICE

10. In approaching the question of impairment of fitness to practice, the Statutory Committee must engage in a 2-step process. First, it must decide whether there has been misconduct. Secondly, it must then determine whether as a result of misconduct, fitness to practice is impaired. (Cheatle –v- GMC 2009 EWHC 645)
11. In this case, misconduct has been admitted by the Registrant in her statement dated 7th October 2020 and confirmed through Counsel, Mr McAteer, QC.
12. Addressing stage 2, in approaching the question of impairment of fitness to practice, the committee has to assess the current impairment of this registrant, an approach that requires the committee to look back at the misconduct, look at any steps that

have been taken by the registrant to remediate, consider whether the registrant has insight into the source of her misconduct, and consider the risk of recurrence.

13. The committee has considered relevant case law, and in particular,

(a) In GMC –v- Meadow 2006 EWCA CIV1319 the Court of Appeal said,

“The purpose of FTP procedures 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 practice. The (Panel) 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.”

(b) In CHRE –v- NMC & Grant 2011 EWHC 927 the Court confirmed the test to be applied was a current, forward looking one, confirming the question that the committee has to ask itself and determine was:

“Is this registrant’s current fitness to practice impaired?”

(c) Further, in Cohen –v- GMC the Court said,

“As assessment of current fitness to practice will nevertheless involve consideration of past misconduct and of any steps taken subsequently by the practitioner to remedy it;”, and

“It must be highly relevant in determining if a doctor’s fitness to practice is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated.”

14. The Committee considered the provisions of Regulation 4(2) of the Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practice and Disqualification) Regulations (N.I.) 2012 (“the Regulations”). They provide mandatory criteria that this

Committee must have regard to when considering whether or not a person's fitness to practice is in fact currently impaired. Regulation 4(2) states;

"In relation to evidence about the conduct or behaviour of the registered person which might cast doubt on whether the requirements as to fitness to practice are met in relation to the registered person, the statutory 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 as defined in the standards, or
- (d) Shows that the integrity of the registered person can no longer be relied upon."

15. Having considered the relevant legal position, the Committee then looked at the Registrant's past misconduct, the steps, if any, she has taken to remediate, whether there is any evidence of insight, and whether there are risks of recurrence.

16. No submissions were received on behalf of the Registrant as to the issue of impairment of Fitness to Practise. The Committee were informed that this issue is a matter for them to determine. Whether or not submissions had been made to the Committee, the Committee is nevertheless required to make an independent decision about whether the registrant's Fitness to practise is impaired. In so doing, the Committee has considered the detailed material put before it, the submissions of Mr Shields.

17. After consideration, the Committee concluded that the Registrant's fitness to practice *is* impaired. In reaching this conclusion, the Committee has taken particular note of the following:

- (i) In respect of **past misconduct**, concerning Allegations 1-7, the Committee considered the material concerning the Registrant's past misconduct and in particular the following admitted facts:

a. The misconduct occurred over a lengthy period of time between 23rd July 2012 and 5th July 2016. The misconduct was not a one off incident but represented a course of conduct over a period of roughly 4 years.

b. There were significant deficiencies in the operation and management of the pre-reg programme offered and provided by the registrant, primarily relating to-

(i) Tutors and Trainees were not adequately placed together, at the same training site often for extended periods of time

(ii) Tutors were frequently unable to interact with and properly supervise, monitor and assess trainees for the requisite minimum period per week

(iii) Trainees were often left in the care of other pharmacists, who were either not accredited tutors or not the designated tutor for that trainee

(iv) The Society was not notified about changes to pre-registration training arrangements

(v) Some appraisals of trainees were carried out and submitted to the Society by tutors, suggesting regularity, when the tutor was not properly in a position to complete or submit the appraisal.

c. The registrant was aware of the requirements for pre-registration training set out in the Standards for Pre-registration Training (2012). Appearing from page 269 of the hearing bundle.

d. The registrant was responsible for the deficiencies in the pre-registration training programme. She was responsible for the organisation and management of the programme and how it was delivered within the organisation. She was also responsible for staff deployment and trainee placement and made decisions that impacted on how training was delivered throughout the Wynrose group. The business was operated by the registrant in a way that prevented the pre-registration training programme from being delivered satisfactorily and in accordance with the standards.

e. When issues were raised either directly with her in the case of Trainee E, or indirectly through a pharmacy manager, in the case of Trainee C, the registrant did not take effective remedial steps. In the case of Trainee C, if the pharmacy

manager did not alert the registrant to the issue raised, this is an organisational issue for which the registrant was responsible.

f. Commercial and business interests appear to have been put ahead of the interests of the trainees and their proper professional development.

g. The integrity of the pre-registration training programme was undermined by the registrant. Given the way in which the programme was operated by the registrant, it was difficult to have confidence that the trainees, at the end of the programme, were fit to practise safely and effectively as unencumbered pharmacists. There was therefore a generalised risk of harm to the wider public generated by the registrant. By verifying that trainees had been trained at Wynrose in accordance with the standards, when they had not been, individual trainees were registered with the Society when they would not have been if the Registrar had known how the programme was being operated.

There would have been a refusal by the Registrar to register those trainees adversely affected by the mismanaged programme, whose training could not be adequately verified and validated.

h. The registrant's conduct was not without consequence. Actual harm was caused to a number of the trainees as a result of the conduct of this registrant. The registration of both Trainee B and Trainee D were made the subject of interim orders. The Statutory Committee in each case required both pharmacists to undergo a period of re-training so that their fitness to practice could be validated and assured. The circumstances surrounding Trainee A's training led the Registrar to refer her to a Statutory Committee to allow the Committee to consider whether an interim order was necessary. Trainee E was required to undertake an additional 6 months of preregistration training, effectively delaying his registration as a pharmaceutical chemist by a year.

In relation to the allegations 8-10, the Committee notes in particular:

a. These allegations demonstrate a lack of care and diligence by the registrant with regard to how the Rosetta pharmacy was operated.

b. Allegations 9 and 10 relate to how the Rosetta pharmacy was open in the absence of a pharmacist. There was a failure, by the registrant, to appreciate the legal necessity to have a pharmacist present to allow the pharmacy to open both lawfully and safely. The comment by Ms Trueick made to Gillian Plant, pharmacy co-ordinator at the Western HSCB (referenced in the statement of Joe Brogan at paragraph 20) that "the shop had been open to get deliveries out" is both revealing and concerning.

c. The maintenance of proper governance arrangements within a corporate pharmacy structure is an essential component the role of superintendent. Allegation 8 to 10 evidence a lack of care and control with respect to governance.

- (ii) As to **remediation**, the Committee has taken into account what, if any, remedial steps have been taken by the Registrant. In terms of the Allegations 1-7, the impact on the Registrant's staff, and the pre-registration trainees in particular, was in the Committee's view, not capable of being remedied. Some of the pre-registration trainees required further training and some had to address issues before the Pharmaceutical Society NI, all of which unquestionably had an adverse effect upon the pre-registration trainees.

As to allegations 8-10, the Committee noted that the Registrant has now put in place an electronic Responsible Pharmacist Record called, *Pharmsmart*, at all her pharmacies, which requires a Responsible Pharmacist to sign in electronically. These details appear at paragraph 59 of the Registrant's statement.

The Committee also notes that the Registrant cooperated with the investigation by the Society. When required to do so, she agreed not to act as, or take on the role of a tutor, and facilitated alternative supervision of Trainee D. However, the Committee did not consider those issues were particularly persuasive in terms of deciding whether the registrant's fitness to practise is impaired or not, which is the decision we must make at this stage.

- (iii) In respect of the Registrant's insight into the source of misconduct, the Committee did not feel that there was sufficient evidence of demonstrable

insight. The duration of time over which the breaches occurred, and the fact that concerns had been raised and yet breaches continued, is of concern and suggests a lack of insight.

- (iv) As to the **risk of recurrence**, the Committee notes the number of breaches and prolonged time period over which same occurred. Between 2012 and 2016, there were repeated breaches in terms of the provision of training of pre-registration trainees, which resulted in numerous issues including: that pre-registration trainees had not been placed with their designated tutor; pre-registration trainees had not been located at the pharmacy at which they were to work; on occasions, training was designated to persons who were not accredited tutors; there were material failures to notify the Society of relevant changes to the pre-registration arrangements.

The events which gave rise to allegations 8-10 occurred in 2019. These were different breaches from the events giving rise to allegations at 1-7. The further breaches in 2019 occurred in spite of the fact that the Registrant was aware of numerous issues arising as a result of the breaches between 2012 and 2016. The Committee notes that in the statement of a trainee, Trainee A, she enquired with the Superintendent i.e the Registrant, to see if the Registrant could provide her with some information regarding her move to Rosetta pharmacy. Instead of addressing the enquiry, the Registrant instructed Trainee A not to speak to her about this matter and to make any enquiries through Tutor H. From an early stage the Registrant ought to have been aware of breaches in her obligations to provide pre-registration training. In spite of that, the documentation demonstrates that breaches continued over a prolonged period of time between 2012 and 2016 and *again*, in 2019. In the circumstances the Committee concludes that there is a risk of repetition in the future.

18. The Committee addressed the wider public interest issue and considered whether the Registrant continues to present a risk to members of the public in her current role. It also considered whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment was not made in relation to the allegations in this case. The Committee concluded that, along

with the issues set out at paragraph 8 above, the wider public interest dictates that a finding of impairment is necessary in this case to uphold proper professional standards and to maintain public confidence in the profession.

19. The Committee has also considered the provisions of Regulation 4(2) in the Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012, in the knowledge that those Regulations provide the mandatory criteria that this Committee must have regard to when considering the issue of impairment. Looking the subparagraphs of that provision in turn, the Committee considered that the Registrant's conduct and behaviour presents a potential risk to patients and to the public at large, that it has brought, and might in the future bring the profession of pharmacy into disrepute, and it has breached several relevant fundamental principles of the profession of pharmacy in the 2009 and 2016 Codes of Ethics.

As to the 2009 Code of Ethics, the Committee considered that the following principles have been triggered: 1.1, 4.1, 4.2, 6.3, 7.1, 7.2, 8.1, 8.2, 8.5, 8.13.

As to 2016 Code, the Committee considers that the following principles have been triggered: 1.15, 1.2, 1.2.1, 1.2.7, 2.1.6, 3.1.1, 3.1.2, and 3.1.6.

The Committee also looked at subparagraph (d) of Regulation 4(2). The Committee makes no determination on this issue at this time based on the material before it. Sub paragraphs (a) to (c) inclusive are certainly relevant to the issue at hand, whether the Registrant's fitness to practice has been impaired.

20. The Committee then moved to consider the issue of sanction. The Committee received oral submissions from Mr Shields and Mr McAteer QC on the proportionate and appropriate sanction.

DECISION AS TO SANCTION

21. The Committee considered the Pharmaceutical Society of NI, Indicative Sanctions Guidance published in January 2019 with effect from the 27th March 2019, "(The

Guidance)". In considering what sanction to impose, if any, the Committee had regard to the principle of proportionality, and of the need to balance the public interest against the Registrant's own interests.

22. The Committee acknowledges that the purpose of a sanction is not to be punitive, but to protect the public interest. The sanction imposed should pose no greater restriction upon the Registrant than is absolutely necessary to achieve its objectives. When considering proportionality, and the public interest, the Committee notes that it is entitled to give greater weight to the public interest, and to the need to maintain public confidence in the profession, than to the consequences to the Registrant of the imposition of a sanction. The Committee also notes that the public interest in the context of a case such as this includes addressing issues of protection of the public, maintaining public confidence in the profession of Pharmacists, and maintaining proper standards of behaviour.

23. The Committee first considered the seriousness of the registrant's actions, and had regard to the mitigating and aggravating circumstances section of the Indicative Sanctions Guidance at sections 2.10 to 2.16, and to the submissions of Mr Shields and Mr McAteer QC as to mitigating and aggravating circumstances in their respective submissions on sanction.

24. The Committee looked at the mitigating factors and noted;

- (a) The Registrant has been on the register for a period of 32 years.
- (b) This is her first time before the Statutory Committee.
- (c) She gave a voluntary undertaking not to act as a pre-registration tutor when asked to do so.
- (d) She co-operated with the Society and its investigations.
- (e) She co-operated with the 2019 investigation by the Medicines Regulatory Group.
- (f) The Registrant made admissions in respect of the 10 allegations on the first day of this hearing, admitting the facts and misconduct, thereby shortening the Committee's deliberations concerning these issues.
- (g) She made no contrary submissions concerning the issue of impairment of fitness to practise, and again, this shortened the Committee's deliberations on this fundamental issue

- (h) She provided some assistance in respect of training for Trainee D;
- (i) The Committee took into account the fact that the issues giving rise to the main allegations, 1 to 7, have been hanging over her for a period of 4 years, no doubt giving rise to considerable stress and embarrassment.

25. The Committee looked at the aggravating factors and noted;

- (a) This was not a case of a one-off event. Rather the misconduct concerning pre-registration trainees occurred over a prolonged period, 4 years, from 2012 to 2016.
- (b) Allegations 8-10 occurred 3 years after the pre-registration training issues and those allegations related to management problems in 2019.
- (c) Harm was caused to 4 registrants.
- (d) Harm could have been caused to patients arising from the failure to deliver training to an appropriate standard.
- (e) The Registrant had placed business and personal interest before the interest of the trainees, her staff and her patients.

26. The Committee acknowledges that in making its decision it will have regard to the full range of sanctions available to it, starting with the lowest, and decide if it is appropriate to this case. If not, the Committee shall consider the next sanction, until it decides which appropriate sanction is appropriate.

27. First, the Committee considered whether it was appropriate to take no action. The Committee agrees with Mr Shields that given the material before it and the Committee's decision on impairment that it would not be appropriate to take no action. It agrees that the impact of such a decision on public confidence would be significant. Mr. McAteer, QC, on behalf of the Registrant, acknowledged that taking no action was not something that the Committee was likely to consider as an appropriate course way to approach the case.

28. The Committee then considered whether it was appropriate to give the Registrant a warning. The Committee did not think that this sanction was appropriate. Giving a warning was inconsistent with a finding of impairment to practise and the basis for it. The allegations were not minor, and they occurred over a long period of time. The

Committee acknowledged the need to uphold the standards of the profession and to demonstrate to others that those offering training should ensure that the training is effected properly, and in accordance with the appropriate standards. Training is an important tool in providing Pharmacists with a platform from which to provide quality service, with professionalism and confidence. The Committee acknowledges that the purpose of the training is to maintain proper standards so that the public has confidence that the Pharmacist will be properly trained and can achieve appropriate experience.

29. Then, the Committee considered whether to place Conditions on the Registrant. The Committee have decided that this is the appropriate sanction. The Committee wants to ensure that the sanction it imposes achieves the objectives of protecting the public, maintaining public confidence in the profession, and maintaining proper standards of behaviour. Although the events giving rise to the allegations occurred over a protracted period, the Committee also noted that its decision has to be proportionate, that the sanction is not to be punitive and that it should protect the public interest.

30. In deciding to impose Conditions, the Committee considered the following matters;

- (a) The Registrant had prioritised business and personal interests over the interests of her staff, pre-registration trainees, and the public.
- (b) Her actions had an impact on at least 4 pre-registration trainees, and the failure to deliver adequate training had the potential to impact upon patients.
- (c) The Registrant took too much on, acting as Superintendent, a Responsible Pharmacist, a Tutor, and undertaking training of pre-registration trainees.
- (d) However, it is agreed that the Registrant had been on the register for a period of 32 years to date, without difficulty until from 2012 to 2016, and for a short period in 2019.
- (e) She had not previously been before a Statutory Committee.
- (f) The allegations at 1 to 7 had been hanging over her for 4 years.
- (g) More recently she has relieved herself of responsibilities as a Registered Pharmacist.
- (h) The Committee felt that it would be best for the Registrant, for the profession, and in the public interest, that she should be relieved of her responsibilities as a Superintendent, and as a Responsible Pharmacist, that she should not employ pre-

registration trainees, or engage in the tutoring of them for a period of time. This will allow her to continue to work in her pharmacies as a Pharmacist.

- (i) The Committee require her to take the time during the period in which the Conditions have been imposed;
 - (i) To consider what went wrong during the periods giving rise to the allegations.
 - (ii) Going forward, what is needed to provide a consistent, and professional service as a Pharmacist to the public.
 - (iii) To be aware of the need to undertake regular risk assessments.
 - (iv) To undertake her CPD obligations pursuant to paragraph 5.1.2 of the 2016 Code of Practice.
 - (v) As part of her CPD obligations to undertake a cycle of training concerning the duties and legal requirements of a Responsible Pharmacist.
 - (vi) To learn how to work collaboratively with colleagues pursuant to paragraph 4.3.2 of the 2016 Code of Practice.
 - (vii) To maintain and develop her professional knowledge skills and competencies pursuant to paragraph 5.1.3 of the 2016 Code of Practice.
 - (viii) That the Registrant has the opportunity to undertake all necessary training.

31. In imposing the Conditions, the Committee seeks to achieve space for the Registrant to improve and continue to maintain her professional standards in the future, and if achieved, the Committee is of the view that this will ultimately be in the public interest, and will maintain public confidence in the profession.

32. The purpose of these Conditions is to provide the Registrant with an opportunity to take the time to ensure that she conducts her work as a pharmacist properly, to achieve a greater insight into what is required of a Superintendent and what is required of a Responsible Pharmacist. The Committee wants to ensure that the Registrant undertakes all necessary training within the period of the Conditions to achieve an insight into the failings that gave rise to the allegations and to address those failings relating not only to allegations 1-7 concerning the training of pre-registration trainees, should she undertake that role in the future, but also to address the allegations 8-10 addressing management issues.

33. In imposing the Conditions below, (and set out again separately in a Schedule to the decision in this case), the Committee acknowledges that any Conditions must be specific, appropriate, relevant, realistic and verifiable, and time limited, so that the Registrant knows exactly what is expected of her, and to ensure that the onus is placed on the Registrant to complete the Conditions imposed by this Committee.

34. The Conditions are:

- (a) The Registrant shall not work as a Superintendent for a period of 18 months.
- (b) The Registrant shall not act as a Responsible Pharmacist for a period of 18 months.
- (c) The Registrant is not to undertake any pre-registration training of any trainees for a period of 18 months.
- (d) The Registrant is not to employ any pre-registration trainees at any of her 4 premises for a period of 18 months.
- (e) The Registrant shall continue to undertake her CPD obligations.
- (f) As part of her CPD obligations the Registrant shall undertake a cycle of training concerning the duties of a Responsible Pharmacist.
- (g) This Order shall have effect after the expiration of the appeal period on 14th November 2020, save for Condition (a) which shall take effect at 9.00am on the 1st December 2020, by which time the Registrant shall ensure the engagement of a Superintendent from within her own staff, or externally. Pending such timely engagement the Registrant shall remain as Superintendent
- (h) In the event that the Registrant fails to comply with the Condition (a), she will be in breach of that Condition, and the Society will be at liberty to refer this breach back to the Committee.
- (i) Compliance with these Conditions shall be reviewed by the Committee prior to the expiration of the period of the Conditions.

35. For the avoidance of doubt the time period for compliance with these Conditions is 18 months from the 1st December 2020, in respect of Condition (a), and 18 months from the 16th October 2020 in respect of the remainder of the Conditions. The Committee did not consider that Conditions set for a period of 12 months would provide sufficient time to achieve remediation, and gain further insight, and to allow the Registrant to demonstrate that she can maintain proper standards of behaviour in the future, and

thereby ensure, in so far as is possible, that there is a maintenance of proper standards of behaviour for Pharmacists, and that the public is protected.

36. The Committee considered whether the Registrant should be suspended from practice for a period of not exceeding 12 months. In not imposing a sanction of Suspension the Committee took into consideration the best way to achieve the objectives of protection of the public, the maintenance of the confidence in the profession, and the maintenance of proper standards of behaviour. The Committee seeks to ensure that the Registrant can maturely reflect on, and learn from her mistakes, and to ensure that the Registrant provides proper standards of behaviour going forward. Considering Suspension, the Committee noted that the Guidance indicates that Suspension Orders cannot be made the subject of Conditions, although where the Committee expects the Registrant to address specific issues, or take specific action, before the suspension is reviewed, the Committee can make a recommendation to the Registrant as to actions the Committee considers may remediate the reasons for the finding of impairment. The Committee felt that remediation is best achieved by the imposition of the sanction of Conditions, and that the Conditions are more likely to ensure the maintenance of proper professional standards going forward, than with a Suspension Order, and any recommendations that may be made with it. Further, if a 12 month suspension had been imposed, without recommendations, then the Registrant could simply return to work as a Superintendent and Responsible Pharmacist after the suspension, and the Committee could not be confident that the Registrant had made any or any material attempt to address the behaviours that gave rise to the allegations in the first place. The Committee seeks to attempt an improvement, and continued maintenance of professional standards by the Registrant, which would be in the public interest. In the circumstances the Committee considers that the imposition of the recorded Conditions is likely to achieve the most effective result.

37. The Committee considered whether a direction should be made to strike the name of the Registrant off the Register (removal from the Register). In all the circumstances, the Committee did not think that this was the proper, fair, or proportionate sanction. It did not, in the mind of the Committee, reflect the mitigating, as well as the aggravating circumstances in this case. The Committee also took into consideration the fact that the more serious allegations, 1-7, took place over 4 years ago now, that the allegations 8-10 were less serious, and occurred over a short period of time, that

the Registrant has been on the Register for 32 years to date, and this is the first time that she has appeared before a Statutory Committee.

38. In order to address an issue raised by Mr McAteer QC when he invited the Committee to consider adjourning these proceedings, and revisit them at a later date to allow the Registrant to work with the Society, the Committee did not think that this was an appropriate approach. It considered that such a step would simply put off determination of the allegations that had been hanging over the Registrant over a long period of time. Further, the Committee felt that the public interest required the Committee to make a decision on the allegations now.

39. In conclusion, having considered all relevant facts, the very helpful submissions of Mr Shields and Mr McAteer QC, and the Indicative Sanctions Guidance, the Committee considered that the appropriate and proportionate sanction to apply was to impose Conditions, as set out above, and in the Schedule to the decision.

DECISION ON INTERIM MEASURES

40. The Committee did not consider that the imposition of interim measures was necessary in the public interest. The Committee sought the views of Mr Shields on this issue and he did not make any submissions that the Committee should impose interim measures in this case. Accordingly, the Committee decided not to impose any interim measures.

COSTS

41. There was no application for costs.

Mr Gary Potter

Chair of the Statutory Committee

16 October 2020

SCHEDULE OF CONDITIONS

- (a) The Registrant shall not work as a Superintendent for a period of 18 months.
- (b) The Registrant shall not act as a Responsible Pharmacist for a period of 18 months.
- (c) The Registrant is not to undertake any pre-registration training of any trainees for a period of 18 months.
- (d) The Registrant is not to employ any pre-registration trainees at any of her 4 premises for a period of 18 months.
- (e) The Registrant shall continue to undertake her CPD obligations.
- (f) As part of her CPD obligations the Registrant shall undertake a cycle of training concerning the duties of a Responsible Pharmacist.
- (g) This Order shall have effect after the expiration of the appeal period on 14th November 2020, save for Condition (a) which shall take effect at 9.00am on the 1st December 2020, by which time the Registrant shall ensure the engagement of a Superintendent from within her own staff, or externally. Pending such timely engagement the Registrant shall remain as Superintendent
- (h) In the event that the Registrant fails to comply with the Condition (a), she will be in breach of that Condition, and the Society will be at liberty to refer this breach back to the Committee.
- (i) Compliance with these Conditions shall be reviewed by the Committee prior to the expiration of the period of the Conditions.