

**GENERAL PHARMACEUTICAL COUNCIL**

**FITNESS TO PRACTISE COMMITTEE**

129 Lambeth Road, London SE1 7BT

Monday 16 January 2012

Chairman: Mr Stuart Turnock

Committee Members: Mrs Hilary Anderson  
Mrs Ros Gardner

Committee Secretary: Ms Ekash Paik

CASE OF:

**GULAMHUSEIN, Charlotte**  
**(Registration Number: 2052358)**

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MISS NIRUPAR UDDIN, Case Manager, appeared on behalf of the General Pharmaceutical Council.

MR KEVIN McCARTNEY, of counsel, instructed by Debenham Ottoway, solicitors, appeared on behalf of Miss Gulamhusein, who was present.

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Transcript of the shorthand notes of T A Reed & Co Ltd  
Tel No: 01992 465900

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A | DETERMINATION OF THE COMMITTEE ON FINDINGS OF FACT

THE CHAIRMAN: Miss Gulamhusein faced the following particulars of allegation:

B | “1. That being first registered as a pharmacist on 23 October 2000, from December 2008 to December 2009, you were the pharmacist in charge of Bell Pharmacy, 995 Romford Road, Manor Park, London E12 5JR (‘the Pharmacy’).”

C | That was admitted.

“2. Between May 2009 and August 2009 you submitted inflated claims to the Prescription Pricing Authority (PPA) for Medicine Use Reviews (MURs) as set out in schedule 1 below.”

D | Schedule 1 recorded that on 5 May 2009, 150 claims were submitted and only 90 carried out; on 5 June 2009, 100 claims were submitted and two were carried out; on 6 July 2009, 100 claims were submitted and none were carried out; and on 5 August 2009, 50 claims were submitted and none had been carried out.

E | That is a total of 308 claims ,which it was said were made for MURs which were not carried out. Miss Gulamhusein admitted she had submitted inflated claims although she believed that she submitted fewer such claims than alleged.

F | “3. Between April 2009 and August 2009 you received a personal bonus of £800 from Medipharmacy Limited for completing the 400 MURs.”

Miss Gulamhusein admitted that was the case although it is agreed that she has repaid the £800.

G | “4. Your conduct as described at 2 and 3 above was:

- H |
- i. Dishonest; and/or
  - ii. Inappropriate; and/or
  - iii. Contrary to Principle 2.2 of the Code of Ethics; and/or

- A
- iv. Contrary to Principle 6.7 of the Code of Ethics; and/or
  - v. Contrary to the Standard Operating Procedures of the Company.”

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Principle 2.2 of the Code of Ethics in force at the time required pharmacists to make sure that their professional judgment was not impaired by personal or commercial interests, incentives, targets or similar measures.

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Principle 6.6 of the Code of Ethics in force at the time required pharmacists to comply with legal requirements, mandatory professional standards and accepted best practice guidance.

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Miss Gulamhusein admitted that she had acted contrary to the Standard Operating Procedures, that her actions were contrary to Principles 2.2 and 6.6 of the Code of Ethics, were inappropriate and were dishonest to the extent that when she submitted the claims she knew at the time of submission she had not completed the full number of MURs detailed on the claim.

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“5. Between December 2008 and December 2009, you submitted an unknown quantity of repeat prescriptions to the PPA for reimbursement, before the medicines had been supplied to the patients.”

Miss Gulamhusein admitted that was the case.

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“6. Your conduct as described at 5 above was:

- G
- i. Dishonest; and/or
  - ii. Inappropriate; and/or
  - iii. Contrary to Principle 5.2 of the Code of Ethics; and/or
  - iv. Contrary to Principle 6.7 of the Code of Ethics;
  - v. and/or contrary to the Standard Operating Procedures of the pharmacy.

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Principle 5.2 of the Code of Ethics in force at the time required pharmacists to apply their knowledge and skills appropriately to their professional responsibilities.

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Principle 6.7 of the Code of Ethics in force at the time required pharmacists to honour commitments, agreements and arrangements for the provision of professional services.

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Miss Gulamhusein admitted that she acted contrary to the Standard Operating Procedures, contrary to Principles 5.2 and 6.7 of the Code of Ethics and that her conduct was inappropriate. She denied that she acted dishonestly.

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It fell to the Committee therefore to reach a determination in respect of those matters which were not admitted, that is to say, the number of MURs which were claimed for but not carried out; her motivation for such action; and whether her actions in submitting an unknown quantity of repeat prescriptions to the PPA for reimbursement before the medicines had been supplied to the patients was dishonest.

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The evidence presented by the Council comprised the oral evidence of Mr Andrew Smith, who was at the time a Professional Standards Inspector, and a number of agreed witness statements. Those statements were from Mr Diego Sanchez, a

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Customer Area Manager from Medipharmacy Limited, Ketan Argravat, who was the superintendent pharmacist with Medipharmacy Limited, Minal Maru, the registered pharmacist whose maternity leave was being covered by Miss Gulamhusein, and Martha Pawluczyk.

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Miss Gulamhusein gave oral evidence and, as the question of dishonesty was in issue, a number of testimonials were submitted by her and taken into consideration.

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In so far as they are not admitted, the Council bears the burden of establishing the facts. The standard of proof is the balance of probabilities.

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As for the alleged dishonesty, we must apply the combined test set down by the House of Lords in the *Twinsectra* case which is essentially the same as that laid down by the Court of Appeal in *R v Ghosh*. Therefore, we must ask ourselves, and have done so, firstly, have the Council satisfied us that what was done was dishonest

A | according to the standards of reasonable and honest people and, if so, have the Council satisfied us that Miss Gulamhusein realised at the time that what she was doing was by those standards dishonest? It is only if both questions are answered in the affirmative that the Committee can find Miss Gulamhusein to have been  
B | dishonest.

Miss Gulamhusein was first registered with the Royal Pharmaceutical Society on 23 October 2000 and re-registered with the General Pharmaceutical Council (Registration number 2052358) on 27 September 2010. She completed a degree in  
C | pharmacy at Brighton University in 1999 and, having completed her pre-registration year in 2000 with Boots, she generally worked as a locum pharmacist.

Prior to her appearance before this Fitness to Practise Committee she was of good character with no previous history either with the Royal Pharmaceutical Society of  
D | Great Britain or the General Pharmaceutical Council.

On 8 December 2008 she commenced work in London at the Bell Pharmacy which is owned and operated by Medipharmacy Limited. She was employed in the capacity of  
E | pharmacy manager on a 12-month contract whilst the permanent pharmacy manager was on maternity leave. Miss Gulamhusein says that she was eager to impress her employers as she needed to keep her job and she was hoping that she would be offered a new role in one of their other pharmacies.

One of the tasks that fell to her was to conduct Medicine Usage Reviews (MURs). The pharmacy has a standard operating procedure, which they actually called Medication Use Reviews, which set out the practice to be followed when these reviews take place. That procedure identified the purpose of the reviews as follows:  
G | they are conducted with patients to improve patient knowledge, concordance and use of medicines by establishing patients' actual use; understanding and experience of taking medicines; to identify side effects and drug interactions that may affect patient compliance and to improve the clinical and cost-effectiveness of prescribed medicines and reduce medicine wastage.  
H |

A | The procedure requires, amongst other things, that the MUR is to be carried out by going through the appropriate form and that a record should be made on the patient's medication record recording the date when the MUR is carried out. A copy of any recommendations is to be sent to the GP, a copy is to be given to the patient and one copy is to be kept in the pharmacy.

B | Miss Gulamhusein says that she was not used to completing MURs as up to that point she had worked as a locum. She completed them on paper as she did not know how to do so on the computer. She says she would then place the MURs in a ring binder and she said that she did not keep a definitive record of how many MURs she had completed. She says that the company encouraged pharmacists to carry out as many MURs as possible each month although there was no set number as a target. She believed that the company would take the number of MURs submitted to the PPA into account when assessing her performance capabilities.

C | A claim was sent off to the Prescription Pricing Authority every month which indicated how many MURs had been conducted by the pharmacy. The documentation submitted to the PPA by Miss Gulamhusein and signed by her showed that for April there had been a submission on 5 May 2009, for May a submission on 8 June 2009, in June a submission on 6 July 2009 and in July on 5 August 2009. For each MUR she conducted the company received a payment of £28 while she received £2 from the company.

D | On Monday 14 December 2009, Mr Diego Sanchez, the Company Pharmacy Manager with Bell Pharmacy, visited the pharmacy at which Miss Gulamhusein had been working. He noticed that the MUR file that was there was dated from the previous year and he noticed that no MURs were present from April 2009. He spoke to Miss Gulamhusein on the telephone and asked her where she had stored the completed MURs as he could not locate any of the 400 which had been claimed for during the period April 2009 to July 2009.

E | Miss Gulamhusein attended the pharmacy and assisted in a search for the documentation. That could not be found and she suggested that they might have been

A | thrown away. She later wrote to the company stating that she had completed a total of  
400 MURs and that she would try to remember as many names as possible. Two days  
later, on 16 December 2009, she wrote a further letter to Medipharmacy Limited  
acknowledging that there was not sufficient evidence to provide to the company to  
B | prove that she had completed any of the 400 MURs.

She returned the sum of £800 which represented the payment she would have received  
for completing 400 MURs. She actually issued a cheque which was written by her  
C | mother in the sum of £1,100 which represented the £800 which she had received by  
way of bonus and the repayment of the Royal Pharmaceutical Society fees which the  
company had paid and which they now wished her to repay.

Miss Gulamhusein admitted the allegations relating to the conduct of the MURs save  
D | that she said she believed that she submitted fewer such inflated claims than was  
alleged. She frankly admitted that she could produce no evidence to show that any  
more MURs than the 92 which were found were conducted. Mr Smith gave evidence  
that he conducted a search of the premises and could only find 92 completed forms.  
The Committee accordingly found that the particular of allegation as alleged had been  
E | made out.

Miss Gulamhusein said that she did not submit inflated claims for financial gain. The  
Committee were of the view that Miss Gulamhusein had taken up her first non-locum  
F | position and managerial post and found herself somewhat out of her depth in fulfilling  
her responsibilities. At the time of the events under consideration she was suffering  
from stress because of her domestic circumstances and was very keen to give a good  
impression to her employer of her competence and capabilities. She particularly  
G | wanted to impress them in the hope that she might be offered a permanent post with  
the company. The Committee found that she decided that one way which she could  
impress the company would be by showing that she was completing a high number of  
MURs. The completion of an MUR earned for the company £28 for each one  
completed, as we have said. As noted, from that payment the company paid to Miss  
H | Gulamhusein the sum of £2.

A | The Committee, having heard Miss Gulamhusein and considered all of the evidence, concluded that she did not submit the inflated claims as a result of the prospect of receiving £2 from each one but as set out above, namely, to impress the company for the reasons given.

B | A further responsibility which fell to Miss Gulamhusein was the responsibility for dealing with the repeat prescriptions which were required by patients. Again, the pharmacy had a Standard Operating Procedure relating to the handling of repeat prescriptions. Miss Gulamhusein said in interview that she was aware of the  
C | procedure and that she believed that she had it. That procedure required, amongst other things, the master repeatable prescription and batch issues are filed in the repeat dispensing lockable box and that the master repeatable prescription should be submitted only when all batch issues have been supplied or have expired or are no longer needed by the patient.

D | Minal Dhanvatrai Maru provided a witness statement dated 29 May 2010. In that she says that during her first week back at work patients who were on the repeat dispensing schemes started to come in to get their medicines dispensed. When she  
E | tried to do this all that was available to her were photocopies of the repeat dispensing (RD) prescription forms, some of which were difficult to read.

When questioned at her interview Miss Gulamhusein confirmed that the issue had been raised with her and she told the Investigating Inspector:

F | “ ... but one month we decided to send some of them in advance because we believed the patients would come and collect them within one or two months anyway and we were always, again, as I said, encouraged to increase script  
G | numbers, so I felt that would be a help in increasing the numbers for the company.”

It was put to her by the Inspector:

H | “So you understood how the scheme worked, and yet you decided to increase

A | your script figures at the end of your month to submit them early.”

to which she replied:

B | “I believe at the time my judgment may have been slightly clouded due to the  
stress I was undergoing with the break-up of my marriage and the pressure at  
the pharmacy, but in hindsight I can see it wasn’t a right thing to do if I was  
following the SOP set out by the pharmacy to the correct procedure... I’m now  
C | aware of the mistake I made will obviously ensure that it won’t happen again  
in the future. But I admit it was a mistake on my part in sending some of them  
slightly early than they should have been sent.”

She also said:

D | “It was a matter of poor judgement on my part as I was not thinking straight  
and this resulted in me claiming for the RD prescriptions before I dispensed  
them – i.e. I claimed for them earlier rather than a few weeks later.”

E | Mr Smith suggested:

“In submitting the actual forms before people had collected them, I mean  
technically they hadn’t then collected them and it’s a fraudulent claim.”

F | To that suggestion Miss Gulamhusein replied:

G | “I think at the time I didn’t really think of it like that. I thought of it that they  
would come within one or two months and at that time I didn’t realise it was  
something I was doing wrong. I was obviously not gaining anything from  
doing it financially. It was only the company who would have gained and  
there was never any intention on my part to do anything wrong, I just believe  
it was something I overlooked at the time.”

H | In a written witness statement, that Miss Gulamhusein submitted, she said that a

A dispenser would prepare the form and that she would review it and then sign it. She says that around November 2009 she became aware that a number of repeat batch prescriptions were in a ring binder which related to medication which had not yet been collected by patients. She says she was unsure what to do with them and she discussed the issue with the dispenser and they decided that they would be submitted in one batch to the PPA before some of the medication had been requested by or supplied to the patients involved.

Miss Gulamhusein's recollection was that the batch was submitted at the start of December 2009 and that the repeat prescriptions were dated for the period September 2009 to November 2009. A photocopy of the repeat dispensing form was made. She says that she believed that the patients in question would have collected their medication but she accepts that she cannot be certain. She felt that the pharmacy was encouraged to increase prescription numbers and it would be helpful in submitting the claims for payment to the PPA earlier than when they became due.

In her oral evidence before the Committee Miss Gulamhusein maintained her claim that she had made an error as the result of her inexperience and confusion regarding the process and that at the time that the material was submitted she did not think that she had done anything wrong and had not acted dishonestly.

Returning then to the *Twinsectra* test. Have the Council satisfied us that what was done was dishonest according to the standards of reasonable, honest people? Claims for payment had been submitted in respect of prescriptions which had not been dispensed in the expectation that they would be. It is obvious that such prescriptions might not be dispensed; a patient for example might move away or cease to want to take the medication or unfortunately die. In those circumstances there would be no payment due and we were satisfied that would be considered dishonest objectively.

We must then ask ourselves have the Council satisfied us that Miss Gulamhusein realised at the time that what she was doing was, by those standards, dishonest? As indicated above, we found that at the relevant time Miss Gulamhusein was somewhat out of her depth in her employment and at the time under examination was under

A stress both at work and at home. She said that she was confused about the process for  
handling repeat prescriptions and submitting claims for them. She accepts that she  
submitted them in advance of the dispensation of the medicine expecting that they  
would subsequently be dispensed. She kept a photocopy of the documentation that  
she had submitted which meant there was a clear audit trail available when the regular  
B pharmacist returned to duty. As Mr McCartney submitted, people acting in a  
dishonest manner do not do so in such an open way.

C We have had the benefit of observing Miss Gulamhusein give evidence and carefully  
reflected on the other evidence submitted. We have taken account of Miss  
Gulamhusein's good character up to the date of allegations. We have noted that with  
regard to the MURs she accepted that she acted in a dishonest manner but staunchly  
maintained her actions were not dishonest with regard to the claims in respect of the  
repeat prescriptions. The Committee concluded that when applying the second limb  
D of the *Twinsectra* test we did not find that Miss Gulamhusein had acted dishonestly in  
respect of the repeat prescriptions.

E Those are the Committee's findings of fact.

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A | DETERMINATION ON IMPAIRMENT OF FITNESS TO PRACTISE

B | THE CHAIRMAN: The Pharmacy Order 2010 sets out limited grounds on which impairment can be found and one of those is misconduct. Through her representative, Miss Gulamhusein accepted that the breaches to which she had admitted and the dishonesty in respect of the MURs did amount to misconduct.

C | The test for impairment is a current test and it has to be established that fitness to practise is impaired at this moment in time. However, it is well established that regard can be had to past conduct and indeed must be had when considering whether a person's fitness to practise is impaired at the time of the hearing.

D | Mr McCartney, I think, referred not by name but to the case of *Zygmunt v General Medical Council* when Mitting J adopted a summary of potential causes of impairment offered by Dame Janet Smith in the fifth Shipman inquiry report of 2004. She considered that impairment would arise, and this was in respect of a doctor but the same principles apply for a pharmacist, where the doctor presents a risk to patients, and that of course has not been suggested in this case, but also if they have brought the profession into disrepute, has breached one of the fundamental tenets of the profession and has acted in such a way that his integrity can no longer be relied upon.

F | Taking account of those factors the Committee were satisfied that the admission that fitness to practise is currently impaired was properly made and that is the conclusion and the finding of the Committee.

G |

H |

DETERMINATION OF THE COMMITTEE ON SANCTION

A THE CHAIRMAN: In our determination on the facts, we set out details of the  
particulars of the allegation which had been admitted and our findings in respect of  
those particulars which had not been admitted. We also set out some of Miss  
B Gulamhusein's personal circumstances.

The Committee found that her fitness to practice is impaired and that it is therefore  
necessary to consider the question of sanction.

C The sanctions available are limited and are set out in Article 54(2) of the Pharmacy  
Order 2010 which provides that:

D "If the Fitness to Practise Committee determines that the fitness to practise of  
the person concerned is impaired, it may –

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

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

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

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

(e) give a direction that the entry in the Register of the person concerned be  
conditional upon that person complying, during such period not exceeding 3  
years as may be specified in the direction, with such requirements specified in  
H the direction as the Committee thinks fit to impose for the protection of the

A public or otherwise in the public interest or in the interests of the person concerned.”

B The Committee have been assisted in its deliberations by consideration of the Council’s Fitness to Practise Committee’s Indicative Sanctions Guide.

C That reminds us that the purpose of sanctions is threefold: namely the protection of the public, the maintenance of public confidence in the profession, and the maintenance of proper standards of behaviour.

D It is clear, and has been made clear in a number of cases, that the purpose of sanctions is not to punish a practitioner, and that was spelt out in particular in the case of *Dr Shiv Prasad Dey v General Medical Council* (Privy Council Appeal 90 of 2001) when it was said that:

E “The object of proceedings against a practitioner who had been convicted of a criminal offence was twofold: it was to protect members of the public who may use his services, and to maintain the high standards and reputation of the profession. The object was not to punish him a second time for the same offence. The important thing was not the facts themselves, but the perspective from which they were viewed.”

F In considering the sanction the Committee exercises a discretion, and is required to exercise that discretion in a way that is fair and reasonable. This requires a Committee to weigh the interests of the practitioner against the need for public protection and, in making its decision, the Committee will have regard to the public interest, which includes the protection of members of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct and performance.

G There are a number of relevant cases which the Committee have considered in addition to the case of *Dey*, which I have referred to. In *Bolton v The Law Society*

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A | [1991] 1 WLR 512 CA, Thomas Bingham MR said, and this is a case in relation to a  
solicitor but the principles apply equally to other professionals, including pharmacists:

B | “It often happens that a [former] solicitor appearing before the Tribunal can  
adduce a wealth of glowing tributes from his professional brethren. He can  
often show that for him and his family the consequences of striking off or  
suspension would be little short of tragic. Often he will say, convincingly, that  
he has learned his lesson and will not offend again. On applying for  
restoration after striking off, all these points may be made, and the former  
C | solicitor may also be able to point to real efforts made to re-establish himself  
and redeem his reputation. All these matters are relevant and should be  
considered. But none of them touches the essential issue, which is the need to  
maintain among members of the public a well-founded confidence that any  
D | solicitor whom they instruct will be a person of unquestionable integrity,  
probity and trustworthiness.”

In the case of *Marinovitch v General Medical Council* [2002] UKPC 36, it was said:

E | “The Committee are entitled to give greater weight to the public interest and  
the need to maintain confidence in the profession, than to the consequences to  
the appellant of the imposition of the penalty.”

Returning to the case of *Bolton v The Law Society*, it was said:

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

G | In considering the sanction appropriate in this case, the Committee have given  
consideration to the mitigating and aggravating features of the facts found proved and  
the personal circumstances of Miss Gulamhusein, and also the mitigation advanced on  
her behalf, including the testimonials advanced in her support.

H |

A In terms of aggravating features, dishonesty is involved in this case and that is always a very serious matter. The public place a heavy reliance on pharmacists and any act of dishonesty must call into question their fitness to remain on the Register. We found that the motivation for dishonesty was not direct financial gain but it involved misleading her employer and the Prescription Pricing Authority for what she hoped would be a long-term gain in terms of job prospects. It will be recalled that she accepted that she had breached Principle 2.2 of the Code of Ethics which requires pharmacists to make sure that their professional judgment is not impaired by personal or commercial interests, incentives, targets or similar measures.

C The claims are dealt with by the Prescription Pricing Authority, as it then was, largely as a question of trust having been signed by a pharmacist and so there is a breach of trust element.

D The false claims were submitted over a period of months and so were to that extent premeditated.

E At the time of the various breaches Miss Gulamhusein was the person in charge of the pharmacy premises.

There was an initial denial of responsibility in the letter that was written on 14 December.

F We must not lose sight of the other breaches which Miss Gulamhusein has admitted.

On the other hand, we accept that there is much mitigation in this case.

G There was the early repayment of the funds.

There was no actual or potential harm to patients or the public.

H Miss Gulamhusein has shown insight in that she has accepted her wrongdoing and has shown a degree of remorse.

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Although there has been no evidence that she suffered from ill health at the time of the events, we accepted that her domestic circumstances were particularly difficult. Her husband was sentenced to a period of imprisonment as a result of assaults upon her and that would clearly have affected her mental wellbeing.

B

Miss Gulamhusein has produced 14 testimonials which the Committee have carefully considered. They speak highly of her care, kindness and professionalism. They include testimonials from work colleagues and patients and importantly from her current employer for whom she has worked for two years. They have found her to be caring to patients, well-liked and popular in the community. They say that she is honest, trustworthy, reliable, hardworking, a good timekeeper and a good community pharmacist.

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D

Turning then to the appropriate sanction in the case. In order to arrive at the right conclusion the Committee are advised to adopt what is called a step-wise approach, starting with the least restrictive sanction, considering whether that is appropriate, and continuing until the right and appropriate sanction is reached and, having done so, to consider and explain why that is the case.

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The sanction which is least restrictive is a warning. The Indicative Sanctions Guide does give some assistance and suggests where a warning may be appropriate, for example, where there are only minor breaches of standards of conduct, ethics and performance. The Committee are clear that the breaches admitted in this case could not be categorised as minor and the dishonesty was such that there were real risks that a significant loss would be sustained by the public purse. Miss Gulamhusein was aware of the payment system for MURs and that payments would have to be made from the public purse over the months that the claims had been submitted.

G

We did not consider a warning to be appropriate.

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A | Given that the Committee considered a warning not to be appropriate for the misconduct it then went to the next least restrictive sanction, which would be to impose conditions upon your registration.

B | Mr McCartney submitted that conditions would be appropriate in this case and suggested a number of conditions that he considered would be suitable. The Committee did not agree that the imposition of conditions would be the correct sanction in this case. Miss Gulamhusein has now been working full-time for some two years and there is no suggestion in the documentation produced that she has not been carrying out her duties in a satisfactory manner. She is working in a supportive environment and is performing well. Conditions would not address the Committee's concerns and would not be a response to identified needs. More importantly, the predominant consideration exercising us is that a message must be sent out to the profession and the public that dishonest conduct of this nature is unacceptable. The imposition of conditions would not achieve that.

D | That then leaves the options of a suspension or erasure from the Register and, again, there is guidance to be found in the Indicative Sanctions Guide where those sanctions might be appropriate.

E | Suspension may be appropriate, it says, where there is no evidence of repetition of misconduct; public confidence in the profession demands no lesser sanction; a message needs to be sent to the profession and the public that the conduct is unacceptable and unbecoming of a pharmacist, but the conduct falls short of being fundamentally incompatible with continued registration.

F | Cases where removal from the Register may be appropriate include where there is dishonesty; behaviour is fundamentally incompatible with registration; and public confidence in the profession demands no lesser sanction.

G | In the case of *Atkinson v GMC [2009] EWHC 3636 (Admin)* Blake J said:

H | "Mr Gledhill ..."

A

who was representing the doctor in that case:

B

“ ... submitted, and I would accept, that erasure is not necessarily inevitable and necessary in every case where dishonest conduct by a medical practitioner has been substantiated. There are cases where the panel, or indeed this Court of Appeal, have concluded in the light of the particular elements that a lesser sanction may suffice and it is the appropriate sanction bearing in mind the important balance of the interests of the profession and the interests of the individual. It is likely that for such a course to be taken, a panel would normally require compelling evidence of insight and a number of other factors upon which it could rely that the dishonesty in question appeared to be out of character or somewhat isolated in its duration or range, and accordingly there was the prospect of the individual returning to practice without the reputation of the profession being disproportionately damaged for those reasons.”

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Mr McCartney, in his submissions, suggested that the imposition of a suspension in this case might be seen as punitive. In that regard, the Committee also considered the case of *The Council for the Regulation of Health Care Professionals v GMC, Dr Anthony Leeper* [2004] EWHC 1850 (Admin). In that case, the GMC Fitness to Practise Panel had said, in respect of considering a period of suspension:

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“Similarly, a period of suspension would be punitive and serve no purpose in addressing the deficiencies which led to your professional misconduct.”

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Collins J, hearing the appeal, said that that approach failed to consider the need to send out the right signals to the profession and to mark the seriousness of the misconduct. He said:

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“There is inevitably an element of punishment involved, but that is not the reason for imposing the sanction.”

A | As we have noted, Miss Gulamhusein has had a long and previously unblemished career, and the incidents took place over a comparatively short period of time and were not motivated by direct financial gain.

B | In those circumstances, the Committee concluded that it would not be appropriate to erase her registration, but that a period of suspension would be appropriate, as it is necessary to send out the right message to the public and the profession and public confidence demands no lesser sanction.

C | The maximum period of such suspension would be 12 months. The Committee reflected upon the fact that the events under examination took place in 2009 and are now almost three years old. We have noted that Miss Gulamhusein is now performing a useful role and has the undoubted ability to continue to do so. Her Superintendent Pharmacist's testimonial confirmed that she is well regarded, reliable,  
D | honest, sincere and committed. Whilst a clear message needs to be given, a lengthy suspension would be a disproportionate interruption to her career, and the Committee concluded that the appropriate period of suspension would be one month.

E | That is the Committee's determination on sanction.

MISS UDDIN: Sir, in relation to the suspension does the Committee direct a review?

F | THE CHAIRMAN: No. I should have mentioned that. There need be no review given the period of suspension. There is no submission in terms of commencement of the sanction?

MISS UDDIN: No, sir, not from me.

G | THE CHAIRMAN: Mr McCartney will explain to you, Miss Gulamhusein, what that means. In effect, the suspension will not take effect for 28 days which gives you time to consider whether you wish to appeal. Should an appeal be lodged, the suspension does not take effect until such time as the appeal is resolved.

MR McCARTNEY: Thank you very much, sir.

(The Committee adjourned at 5.42 pm)

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