STATUTORY COMMITTEE OF THE PHARMACEUTICAL SOCIETY OF NORTHERN IRELAND

In the matter of:	John Francis Kelly (2611)
Location:	The offices of the Pharmaceutical Society NI, 73 University Street, Belfast, BT7 1HL.
Date:	28 August 2025
Committee:	Mr Gary Potter KC (Chair), Mrs Allison Hume (Lay), Mrs Elizabeth Kerr (Registrant)
Persons Present and Capacity:	Mr Dennis Hamill, Barrister instructed by Ms Leigh Linton (Registrant's Legal Representatives) Mr Jonpaul Shields, Barrister, instructed by Mr Ian Black, Solicitor (PSNI's Legal Representatives), Mr Alan Goleac (PSNI Paralegal)

PRELIMINARY

1. The Statutory Committee ('the Committee') met on the 28 August 2025, to consider allegations of misconduct, in respect of Mr John Francis Kelly a registered pharmacist (the Registrant), made by the Pharmaceutical Society of Northern Ireland ('the Society').

2. The Registrant and their Legal representative attended the hearing.

3. The Committee satisfied itself that service of the Notice of Hearing was properly effected. The Notice of Hearing, dated 23 July 2025, was appropriately served by electronic mail to the Registrant's solicitor in accordance with the relevant regulations. This was within 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').

4. The Committee had a hearing bundle numbering page 1 to page 245 . In the course of the hearing, the Committee admitted in evidence the following documents.

- Exhibit 1: Statement of Case by the Society
- Exhibit 2: Fitness to Practise by the Society
- Exhibit 3: Submissions on behalf of the Registrant
- Exhibit 4: Defence Bundle by the Registrant

PRELIMINARY LEGAL ARGUMENT

5. There were no preliminary legal arguments.

ALLEGATIONS

6. The particulars of the alleged misconduct from which it is alleged that impairment of fitness to practise arises are set out as follows, namely:

- On various dates on and between 1 January 2021 and 5 July 2021 you, as superintendent of Chemcare (NI) Ltd, failed to ensure that the Pharmacy Record at Earlswood Pharmacy, 328 Upper Newtownards Road, Belfast, BT4 3EX, was properly maintained pursuant to Section 72A(5) of the Medicines Act 1968 and Regulation 5 of the Medicines (Responsible Pharmacist) Regulations 2008.

- On various dates on and between 1 September 2018 and 5 July 2021 you, as superintendent of Chemcare (NI) Ltd, failed to ensure that Earlswood Pharmacy had appropriate and sufficient standard operating procedures (SOPs) in place, and that these were readily accessible and available as required by Regulation 4 of the Medicines (Pharmacies) (Responsible Pharmacist) Regulations 2008.

- On various dates on and between 1 September 2018 and 5 July 2021 you, as superintendent of Chemcare (NI) Ltd, failed to ensure that Earlswood Pharmacy had any verifiable audit trail for deliveries of

medicinal products in accordance with section 6 of the Pharmaceutical Society of Northern Ireland's Professional Standards and Guidance for the Sale and Supply of Medicines (2016).

- On various dates on and between 1 September 2018 and 5 July 2021 you, as superintendent of Chemcare (NI) Ltd, with respect to Earlswood Pharmacy, failed to ensure that controlled drug registers were kept and maintained as required by Regulations 19 and 20 of the Misuse of Drugs Regulation (Northern Ireland) 2002, in that you failed;

    (i) to ensure that the particulars of every quantity of a drug specified in Schedule 2 of the Misuse of Drugs Regulation (Northern Ireland) 2002 returned to Earlswood Pharmacy were recorded;
    (ii) ensure that every name and address of a wholesaler from which a Controlled Drug was purchased and received was recorded; and
    (iii) ensure that every entry was properly and correctly recorded.

- On various dates on and between 1 September 2018 and 5 July 2021 you, as superintendent of Chemcare (NI) Ltd, with respect to Earlswood Pharmacy, failed to ensure that an appropriate stock audit of controlled drugs was periodically undertaken.

- On various dates on and between 1 September 2018 and 5 July 2021 you, as superintendent of Chemcare (NI) Ltd, with respect to Earlswood Pharmacy, failed to ensure that an adequate system was in place to record all near misses /errors in accordance with section 3.14 of the Pharmaceutical Society of Northern Ireland's Professional Standards and Guidance for the Sale and Supply of Medicines (2016).

- On various dates on and between 1 September 2018 and 5 July 2021 you, as superintendent of Chemcare (NI) Ltd, with respect to Earlswood Pharmacy, failed to ensure that appropriate records were maintained with respect to extemporaneously prepared and dispensed unlicensed

medicines in accordance with section 4 of the Pharmaceutical Society of Northern Ireland's Professional Standards and Guidance for the Sale and Supply of Medicines (2016).

FACTS

7. The Society's Statement of Case was put before the Committee as the agreed facts. They are as follows; The Registrant is registered as a pharmacist with the Pharmaceutical Society of Northern Ireland. At the relevant time, he was the sole director and majority shareholder of Chemcare (NI) Limited. He has been the superintendent pharmacist of the business since its incorporation on 31st October 1996.

8. The business operated two pharmacies namely Earlswood Pharmacy located at 328 Upper Newtownards Road, Belfast, and Sandown Pharmacy, located at 386 Upper Newtownards Road.

9. It is understood that the Earlswood Pharmacy has since closed on 31st October 2021, but the premises remained registered until 31st December 2021. The Earlswood Pharmacy is not understood to have re-opened.

10. A pharmacy premises self-assessment had been previously completed for Earlswood Pharmacy on 14th June 2021 by a pharmacist working there. On 5th July 2021, Earlswood Pharmacy was visited by Michele Keatings, Principal Pharmaceutical Officer (PPO), to verify the information provided.

11. As a result of the inspection, a number of matters were identified and are set out as follows:

    (a) On various dates on and between 1st January 2021 and 5th July 2021 there was a failure to ensure that the Pharmacy Record at Earlswood Pharmacy was properly maintained pursuant to Section 72A(5) of the Medicines Act 1968 and Regulation 5 of the Medicines (Responsible Pharmacist) Regulations 2008. The log was examined by the PPO and the following deficiencies were identified -

i. RP registration number was missing x 1 time.

ii. Time RP commenced duties was absent x 4 times.

iii. Time RP ceased duties was absent x 4 times.

iv. Pharmacy was open but no RP log completed x 15 times.

v. Pharmacy closed but there was an RP log completed x 3 times.

vi. RP not signed in as being in charge of premises during all of the contracted opening times x108 times.

(b) There were issues with the Standard Operating Procedures (SOPs) on various dates on and between 1st September 2018 and 5th July 2021. Regulation 4(1) of the Medicines (Pharmacies) (Responsible Pharmacist) Regulations 2008 requires a pharmacy to have procedures in place in relation to a number of core functions to include - (i) arrangements to secure that medicinal products are delivered outside the pharmacy in a safe and effective manner, and (ii) the steps to be taken when there is a change of responsible pharmacist. Two new SOPs were introduced after the inspection to cover these areas of practice.

Not all SOPs were immediately available for inspection as is required by Regulation 4(3).

There was insufficient evidence that pharmacy procedures (SOPs) were being properly reviewed regularly (Regulation 4(4)).

(c) On various dates on and between 1st September 2018 and 5th July 2021, there was no verifiable audit trail for deliveries of medicinal products in accordance with section 6 of the Pharmaceutical Society of Northern Ireland's Professional Standards and Guidance for the Sale and Supply of Medicines (2016). There was a system in place for deliveries but this did not adequately meet the professional standard. The delivery mechanism did not include "a verifiable audit trail for the medicine from the point at which it leaves the pharmacy to the point at which it is handed to the patient or their carer, or returned to the pharmacy in the event of a delivery failure"

(d) On various dates on and between 1st September 2018 and 5th July 2021 there was a failure to ensure that Controlled Drug (CD) registers were kept and maintained as required by Regulations 19 and 20 of the Misuse of Drugs Regulation (Northern Ireland) 2002. It is a legal requirement to maintain a record of Schedule 2[1] Controlled Drugs which have been returned by patients for destruction. The PPO identified that the particulars of every quantity of a drug returned to Earlswood Pharmacy were not recorded. The CD register was not always completed, or completed correctly, to ensure that every name and address of a wholesaler from which a Controlled Drug was purchased and received was recorded.

(e) On various dates on and between 1st September 2018 and 5th July 2021 stock audits were not routinely or accurately undertaken with respect to CDs held. One example was Longtec 5mg tablets. The quantity held in the CD safe did not accord with the balance contained within the CD register.

(f) On various dates on and between 1st September 2018 and 5th July 2021, the pharmacy did not have an effective procedure or practice in place to record near misses and errors in accordance with section 3.14 of the Pharmaceutical Society of Northern Ireland's Professional Standards and Guidance for the Sale and Supply of Medicines (2016). A near miss / error log was produced which showed entries made on 10/01/2018 and 01/03/21.

(g) On various dates on and between 1st September 2018 and 5th July 2021 there was a failure to ensure that appropriate records were maintained with respect to extemporaneously prepared and dispensed unlicensed medicines in accordance with section 4 of the Pharmaceutical Society of Northern Ireland's Professional Standards and Guidance for the Sale and Supply of Medicines (2016). The records were either not appropriately maintained or were inadequate to meet the Standards. It is not clear how many extemporaneously prepared medicinal products were produced and dispensed during this period. The records that were ultimately produced, did not comply with the guidance, were undated and incomplete.

12. The Registrant co-operated with the investigations undertaken by the Medicines Regulatory Group (MRG) and the Society. Where failings were identified to him, he accepted such failings. His responsibility lay as superintendent pharmacist in charge of the business and it was incumbent upon him to ensure that adequate and appropriate processes and mechanisms were in place in each of the pharmacies within the business. The issues identified appear to relate only to Earlswood Pharmacy, which was not the pharmacy that the Registrant would have regularly worked at. This pharmacy has since closed.

DECISION ON FACTS

13. The Registrant having had the benefit of legal advice on the issues admitted the allegations and the facts giving rise to them.

14. By reason of the admission of the allegations, and the admission of the facts the Committee found the facts proved.

DECISION ON IMPAIRMENT

15. It is the view of the Committee that the admitted facts fall short of what would be proper in the circumstances and do amount to misconduct.

16. That being so, the next issue for the Committee to determine is whether the admitted allegations, and admitted facts led to a finding of current impairment.

17. The Committee have had regard to the relevant case law. At paragraph 65 of Cohen v GMC 2008 the Court stated,

    i. " It must be highly relevant in determining if a doctor's fitness to practise 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."

18. The Committee also considered the case law on the wider public interest issue and noted the words of Cox J in the CHRE v Grant 2011 case,

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

19. Whilst the Committee considered that there is evidence of well-developed insight, remediation, and remorse, and there is an insignificant risk of recurrence, for reasons set out below, the Committee do consider that the public interest issue is engaged in this case. There is a clear public interest in maintaining standards within the pharmacy profession and maintaining public confidence in the profession. The Registrant was a Superintendent Pharmacist of Chemcare (NI) limited which operated the Earlswood Pharmacy and as such he had significant obligations and responsibilities for the provision of pharmaceutical services within this pharmacy business. The bottom line is that it fell to the Registrant as the Superintendent Pharmacist to ensure that the Earlswood Pharmacy operated in accordance with legal requirements, in accordance with relevant guidance, and provisions of the Code, to ensure that this pharmacy operated safely and effectively for the public. The legislation, and relevant guidance, and provisions of the Code require that appropriate procedures and processes must be in place to protect the public and to be adhered to by the Superintendent Pharmacist in the application of his practice.

20. As to insight, the Committee considered that the Registrant has shown insight. He had the insight to take prompt steps to rectify the breaches identified by the investigator. He has made the case that he found it difficult to engage Registered Pharmacists to run the Earlswood Pharmacy. He took a prudent decision to close the Earlswood Pharmacy. This was a significant step to try to remediate the issues that had arisen in that pharmacy. As to the risk of recurrence, the fact that the Registrant promptly closed the Earlswood Pharmacy is a relevant factor. Further, the Committee took into consideration that the Registrant had practiced without any previous issues from 1996, and that once the Earlswood Pharmacy was closed, at

the end of October 2021, that the Registrant had continued to practice in his Sandown Pharmacy. A further MRG inspection at Sandown Pharmacy occurred and no significant issues of concern have been identified nearly four years later.

21. However, in terms of the wider public interest issue the admitted allegations, and admitted facts, gave rise to a number of relevant failures. There was a failure to ensure that the pharmacy record at Earlswood Pharmacy was properly maintained pursuant to the Medicines Act (2008). There were issues with regard to the existence, maintenance and review of standard operating procedures (SOPs) which gave rise to failures under the Medicines (Pharmacies) (Responsible Pharmacist) Regulations 2008. There was a failure to ensure that the Earlswood Pharmacy had any verifiable audit trail for deliveries of medicinal products contrary to Section 6 of the Pharmaceutical Society of Northern Ireland Professional Standards and Guidance for the Sale and Supply of Medicines (2016). There was a failure to ensure that control of drugs registers were kept and maintained as required by the Misuse of Drugs Regulations (Northern Ireland) 2002. There was a failure to ensure that an appropriate stock audit of controlled drugs was periodically undertaken. There was a failure to ensure that an adequate system was in place to record all near misses/errors in compliance with Section 3.14 of the Pharmaceutical Society of Northern Ireland's Professional Standards and Guidance for the Sale and Supply of Medicines (2016). Finally, there was a failure to ensure that appropriate records were maintained with respect to extemporaneously prepared and dispensed unlicensed medicines in accordance with Section 4.9 of the Professional Standards and Guidance.

22. Whilst there is no evidence of any actual patient harm the failures gave rise to a potential for harm due to the suboptimal governance procedures in place at the time.

23. Particularly when the Registrant knew he had difficulties engaging permanently employed Registered Pharmacists, the Committee considered that it was all the more important for the Registrant to manage and supervise effectively and have proper procedures and standards in place, in accordance with relevant legislation, guidance, and the Code, so that these could be followed by those employees

engaged in practising and providing pharmaceutical services in the Earlswood Pharmacy.

24. In conclusion, on the wider public interest grounds the Committee considered that there should be a finding of current impairment. The Committee considered that the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in this case on these grounds.

DECISION TO SANCTION

25. The Committee is grateful for the submissions on behalf of the Society, from Mr Shields and on behalf of the Registrant, from Mr Hamill.

26. The Committee has reviewed the Indicative Sanctions Guidance and reminded itself that its decision must be proportionate. The Committee acknowledges that the purpose of the sanction is not to be punitive, but to protect the public interest, and that the sanction it determines should impose no greater restriction on the Registrant than is absolutely necessary to achieve regulatory objectives.

27. The Committee is entitled to give greater weight to issues of public interest, and to the need to maintain public confidence in the profession, than to the consequences to the Registrant himself of the imposition of the appropriate Sanction.

28. The Committee has to take into consideration issues of protection of the public, maintenance of public confidence in the profession and the maintenance of proper standards of professional behaviour.

29. As is required, the Committee considered all the potential sanctions available to it, starting with the lowest potential sanction, to decide which was the most appropriate and proportionate sanction in the circumstances of this particular case.

30. The Committee considered both relevant mitigating and aggravating circumstances.

31. As to mitigating factors;

    a. There was no evidence of actual patient harm.
    b. The Registrant had demonstrated insight into his actions. As we said in our decision on impairment he had the insight to take prompt steps to rectify the breaches identified by the investigator .
    c. He took a prudent decision to close the Earlswood Pharmacy
    d. He made early admissions as to his wrongdoing.
    e. The Registrant expressed remorse and was apologetic in respect of the concerns that arose.
    f. He accepted that responsibility for the admitted omissions rested with him as Superintendent Pharmacist.
    g. He cooperated with the Medicines Regulatory Group and with the Society
    h. The Registrant had a long and unblemished career in the profession from 1990 until the subject events.
    i. The Committee noted in Mr Greene's testimonial that the Registrant had a strong sense of duty and responsibility, and made an immense contribution in the development of Community Pharmacy services across Northern Ireland.
    j. These events occurred over four years ago now and there was no evidence of any issues with his professional practice since then.

32. As to aggravating factors, the Committee noted that the subject events occurred over a period of time from September 2018 to July 2021.

33. The Committee acknowledged that in making its decision it is to have regard to the full range of sanctions available to it, starting with the lowest, in deciding which sanction is appropriate.

34. First the Committee considered whether it was appropriate to take no action. The Committee considered that given its finding of current impairment on the wider public interest ground that it would be unusual to take no action after having made such a finding. The Committee does not consider that this Sanction is appropriate in the circumstances of this case.

35. The Committee next considered whether it was appropriate to give the Registrant a Warning. Taking into consideration all relevant matters, and all the evidence before it, the Committee considered that the most proportionate Sanction in order to meet the regulatory objective, was that of a Warning. As is set out in its decision on impairment the Committee did not think that there was a risk to the public arising from the facts giving rise to the allegations. The Committee considered that a Warning was a Sanction that would demonstrate to the Registrant, and more widely to the profession, and the public, that the Registrant's conduct fell below acceptable standards. The Committee took into consideration that a Sanction of a Warning may be appropriate where the Registrant has shown insight, taken remedial action, and where there is an insignificant risk of recurrence. The Warning in the terms set out in the Schedule below will remain on the Society's website and the online Register for a period up to two years.

36. The Committee next considered whether Conditions were appropriate. However, given the Registrant's insight, his acts of remediation, in particular the closure of the Earlswood Pharmacy, that he addressed the issues giving rise to the allegations, and as a consequence the risk of recurrence is insignificant. The Committee also took into consideration the fact that the Registrant has continued to practice in his Sandown Pharmacy for a period of four years without any further difficulties. The Committee did not consider that Conditions would be suitable or workable, and would also be disproportionate, and would not achieve the regulatory objective on the facts of this case.

37. Quite properly the Committee were not invited to consider Suspension or Removal from the Register. Neither of these Sanctions would have been appropriate or proportionate on the facts of this case.

COSTS

38. There was no applications for costs.

SCHEDULE

WARNING

Ensure that you are fully equipped to abide by all relevant legislative requirements, the Pharmaceutical Society of Norther Ireland's Professional Standards and Guidance for the Sale and Supply of Medicines (2016), and the principles and standards contained in the Pharmaceutical Society of Northern Ireland's Code of Practice (2016).

Gary Potter, KC
Chair of the Statutory Committee
28 August 2025