Two pharmacists struck off the professional register, two suspended, two waiting to hear their fate and one suffering the “lasting damage” of being falsely accused. That’s the fallout from the 2012 BBC exposé of the illegal sale of prescription-only medicines (POMs).

At the time, the wrongdoing uncovered by the Inside Out programme’s investigation provoked widespread anger. Pharmacists called on the General Pharmaceutical Council (GPhC) to throw the book at the pharmacists, who were captured on camera handing out drugs such as diazepam over the counter. Day Lewis regional manager Jay Patel said the regulator should “clamp down” on the behaviour. “This breaks every moral code and legal code that we as pharmacists are bound by. These bad apples must be removed from the register,” he said.

Other pharmacists echoed the sentiment, calling for the pharmacists to be dealt with “in the most punitive way possible”. Even Royal Pharmaceutical Society (RPS) spokesperson Neal Patel urged the GPhC to take swift action. The regulator responded by issuing interim suspensions on those accused.

Two years down the line, the London pharmacists are facing the final professional sanctions only now, due to the GPhC waiting for police disclosure. Instead of issuing blanket removals from the register – an outcome that was expected by some – the GPhC has very much treated those involved on a case-by-case basis, and given two the opportunity to return to the register in 12 months’ time (see case studies, overleaf).

So, now the dust has settled in five out of seven cases, do pharmacists and those involved in the case feel the matter has been dealt with fairly?

A ‘hard lesson’

The only way to truly get a feel for the GPhC’s decision-making is to see it in person. With this in mind, C+D attended the fitness-to-practise hearing of Rafif Sarheed, registration number 2078284, last month. Footage from an undercover reporter appeared to show Ms Sarheed selling diazepam, Viagra and amoxicillin without a prescription. In addition, she admitted doctoring the pharmacy’s communication book in an attempt to deceive investigators about what happened on the day she sold the POMs.

On the day of sanctioning, the fitness-to-practise committee takes a long time to make its decision, delaying the hearing for good few...
Regulation BBC exposé

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hours to ensure it passes the right judgment. Lawyers pace up and down the regulator’s central London corridors, while the committee thrashes out the case behind frosted glass walls, food coming in and out. When the sanction finally arrives, it is the worst possible outcome for Ms Sarheed: she is the second pharmacist to be struck off as a result of the BBC investigation.

The decision comes as a blow to Graham Edwards, senior partner at EPLS, who defended Ms Sarheed during the hearing. He brands the decision “harsh” given the committee’s doubts that she would have sold the drugs if she hadn’t been under the influence of her superintendent Hussain Jamal Rasool, registration number 3082498 – the first pharmacist struck off as a result of the BBC’s probe. “Would the average member of the public, knowing all of the facts and knowing the very short career that Ms Sarheed had, really think that the facts as they found them necessitated removal?” he asks.

Mr Edwards says a suspension with a review at the end of the period – the sanction afforded to two other pharmacists involved – would have been enough to send the right message to the public and the profession. Ms Sarheed has learned a “hard lesson” and there is “clear evidence” she wasn’t happy at the Al Fanibi Pharmacy in London, he says. “I think it’s very, very unfortunate that the committee chose to remove her.”

Her case is not the only one that has raised eyebrows. Mohammed El-Hadi Abdul-Razzak, registration number 2078728, also featured in the programme and was given an interim suspension order in April 2013. But this was lifted that October when the police dropped an investigation into his conduct.

Despite Mr Razzak’s name being cleared, the investigation has done “lasting damage” to his confidence, says Ghazi Auda of Safeer Pharmacy in London, he says. “I think it’s very, very unfortunate that the committee chose to remove her.”

Case 1

Name: Ghanshyam Kanji Hirani
Registration number: 2026341
Accused of: Selling amoxicillin without a prescription
Sanction: Suspended for one year on July 3

Case 2

Name: Bita Faizollahi
Registration number: 2047300
Accused of: Selling amoxicillin without a prescription
Sanction: Suspended for one year on July 9

Spectrum of opinion

It’s easy to look at cases such as this and conclude the GPhC and BBC were too quick to judge. But there are two sides to the story. The BBC stands by its “fair, accurate and balanced” investigation, which has uncovered serious breaches in pharmacy practice. And the GPhC placed interim suspensions on the pharmacists with the aim of protecting the public. So what do lawyers think of the way the proceedings have been handled?

The reaction seems mixed. Noel Wardle, pharmacy lawyer and partner at law firm Charles Russell, which defended many of the pharmacists involved, tends to agree with Mr Auda. The GPhC had a “knee-jerk reaction” to the negative publicity and the threshold for interim suspensions wasn’t met “in at least many” of the cases, he tells C+D.

“The GPhC was more concerned with protecting its own image as a regulator of the profession than it was safeguarding the public. It’s difficult to imagine that the sale of a box of antibiotics, allegedly without a prescription, would mean that a suspension was necessary to protect the public or otherwise in the public interest,” he argues.

Even if interim suspensions were made, Mr Wardle believes they should have been kept private. The GPhC was “wrong” to publicise the fact they were made in connection with the BBC investigation, he says: “It’s highly prejudicial to a pharmacist to detail the reasons behind an interim order being published.”

With the case garnering so much media and public attention, he thinks it would have been hard for members of the GPhC committee to stay objective. “The committee members would probably tell you that they consider each case on its own facts and in isolation. But when there’s this sort of publicity, human nature makes it very difficult to put that out of your mind,” he tells C+D.

But Tania Francis, partner at healthcare law firm Hempsons, believes the GPhC dealt well with the publicity. She thinks the committee was “careful” to ensure that registrants weren’t treated more harshly than necessary under its own facts and in isolation. When there’s this sort of publicity, human nature makes it very difficult to put that out of your mind,” he tells C+D.

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“I think the GPhC should make sure what they are doing is right, because the aftermath of these decisions is sometimes irreparable”

Ghazi Auda, owner, Safeer Pharmacy
the gaze of the public eye. “The GPhC dealt with it in a fair way...the public’s perception would have been affected, but fairness to that particular registrant requires that this should not necessarily be a part of the decision-making process,” she says.

She also disagrees with Mr Wardle on the interim orders: given the “prima facie evidence” that the pharmacists had acted unprofessionally and illegally, she believes the GPhC had little choice but to impose interim suspensions.

There are similar differences in opinion among pharmacists. Many C+D readers believe the GPhC has, in fact, not gone far enough. Some have expressed disbelief that some of the pharmacists involved were only suspended. They argue a harsher sanction was needed to restore the profession’s credibility and that other people have been struck off for “much less”.

But there are pharmacists who feel the GPhC has responded proportionately. Hertfordshire contractor Graham Phillips feels the regulator was right to take a “considered and balanced” approach to sanctions. He admits the process has been “slow and frustrating” but he says that’s better than “trial by television”.

RPS president and fellow contractor Ash Soni agrees, and thinks the sanctions the GPhC has handed out will have reassured patients that concerns over professionalism are taken seriously. “We know that most of the public have a very high regard for their pharmacist, and this is completely out of kilter with the normal expectations,” he tells C+D.

Learning points
It seems there will never be a consensus on what the regulator should – or should not – have done. So what can the GPhC and the profession learn from the whole affair? Hempsons’ Ms Francis thinks the GPhC couldn’t do anything more. She says it is “very difficult” to find a way of stopping anyone determined to break the law.

“There are people out there who will break any law there is and any regulation there is, in any walk of life,” she says. “The law is there, the regulations are there, and to a certain extent, what more can you do? [The GPhC] can’t control people’s actions.”

But Charles Russell’s Mr Wardle believes the response to the investigation has highlighted frailties in the fitness-to-practise process. The GPhC is “a reactive organisation rather than a proactive one”, which raises the risk of cases like this happening, he says. “The GPhC has taken a hands-off approach to how it regulates the profession. It will tell you it has a risk-based approach but, actually, if you don’t go out looking for issues, then the only way you’ll be aware of them is when they’re in the BBC and the Daily Mail,” he argues.

The GPhC tells C+D it “always seeks to learn” from fitness-to-practise cases which includes finding ways of speeding up the process. And, of course, there is no way it could please everyone, as the constant scrutiny of

Case 3
Name: Hussain Jamal Rasool
Registration number: 2068258
Accused of: Selling antibiotics, diazepam, and Oramorph without a prescription
Sanction: Struck off the professional register on August 28

Case 4
Name: Rafif Sarheed
Registration number: 2078284
Accused of: Selling amoxicillin, diazepam and Viagra without a prescription, and making a false entry in her pharmacy’s communication book
Sanction: Struck off the professional register on September 16