

Report of the Professional Conduct Committee to  
the Council of the Pharmaceutical Society of Ireland  
in relation to a complaint made pursuant to Part 6 of  
the Pharmacy Act 2007.



## Introduction - Summary Details

Registered Pharmacist:	Mr. Sean O’Leary MPSI
Pharmacist Registration Number:	11913
Complaint Reference(s):	695.2022
Date of Application:	20 September 2024
Public/Private Hearing:	Private
Meeting Format:	MS Teams
Members of Committee:	Mr. Dermott Jewell Mr. Sean O’Reilly Ms. Valerie Beatty
Legal Assessor:	Mr. Ronan Kennedy S.C
Appearances:	
For the Registrar:	Ms. Aisling Ray, Fieldfisher LLP
For the Registrant:	Mr. Frank Buttimer, Buttimer Solicitors
Registrant in attendance:	Yes
Witnesses (if applicable):	Not applicable
Other Attendees:	Ms. Deirdre O’Malley, D. O’Malley Stenography
In Attendance from the PSI:	Mr. Ciaran Lyng, Solicitor, PSI Ms. Anna Malone, Regulatory Executive, PSI
Documentation:	Core Book

## 1. Subject Matter of the Complaint and Proceedings

This is a complaint of the Registrar of PSI in respect of Mr. Sean O'Leary MPSI (11913). The complaint was referred by the Preliminary Proceedings Committee on 6 April 2023 to this Committee on the grounds provided for in section 35(1)(a) of the Pharmacy Act 2007.

## 2. Nature of the Complaint

Mr. O'Leary was first registered on 30 November 2016. He currently works as a Supervising Pharmacist in [REDACTED]

The Registrar initiated a complaint in June 2022 following consideration of an Authorised Officers Report, which investigated a media report of arrests for unlawful possession of a controlled drug in May of 2019 that named Mr. O'Leary as one of the accused.

The Report reflected upon a media report which outlined detail of a District Court conviction in May 2019 when Mr. O'Leary was convicted of possession of cocaine valued at €70 when searched by Gardai on 5 May 2019 in Kinsale, Co. Kerry.

Mr. O'Leary was sentenced to 30 days in prison. This was appealed and on 1 December 2020 the Circuit Court allowed Mr. O'Leary's appeal in full. This reversed the Order of the District Court and expunged any record of any form of conviction. The Court received a charitable contribution from Mr. O'Leary of €1,000.

## 3. Submissions

**Ms. Ray** outlined to the Committee the detail in respect of the media reporting, the Courts conviction and sentencing, the appeal and the subsequent reversal of that conviction and all records relating to it.

Upon receipt of a copy of the Authorised Officers Report, the PSI was contacted by Mr. O'Leary's solicitor, Mr. Buttimer, indicating a willingness to attend for a cautioned interview, as had previously been requested. On 14 March 2022 that interview was facilitated (*Transcript Ref: Page 10 Line 8 to Page 14 Line 27*).

Mr. O'Leary outlined in significant detail the events that led to what he described as a foolish error made when he was inebriated and when his decision-making capability was drastically impaired.

Mr. O'Leary admitted that his actions had caused immense distress to himself and his family and that he had since done everything possible to rectify his error. He had engaged with all health bodies and with Practitioner Health Matters through his GP and a local counsellor. He held his profession in high regard and was committed to his community. He had

committed to testing of his hair and urine samples for the past two years and presented all test results for review- all of which were negative.

He also provided evidence of the previous and current exceptionally positive support and reflections of his employers (*Transcript Ref: Page 14 Line 28 to Page 19 Line 7*).

The PPC considered the matter on 6 April 2023. The PPC was of the view that there was sufficient cause to warrant further action being taken on the grounds provided for in section 35(1)(a) of the Pharmacy Act 2007, as amended i.e. on the ground of professional misconduct and referred the matter to this Committee.

Ms. Ray advised that, since the referral, Mr. O'Leary had indicated through Mr. Buttimer, that he wished to offer undertakings to the Committee in the following terms:

*I, Mr Sean O'Leary MPSI, PSI registration number 11913, hereby undertake and consent as follows pursuant to Section 46 of the Pharmacy Act 2007:*

- 1. Undertake not to repeat the conduct to which the complaint of the Registrar (complaint reference 695/2022) relates, specifically that I will not at any time have any controlled drugs in my possession other than where required in the course of my employment as a pharmacist or where validly prescribed for me by a registered medical practitioner.*
- 2. Consent to being censured by the Council of the PSI.*

Ms. Ray advised that the Registrar had considered this matter in detail, and if the Committee were minded to request undertakings from Mr O'Leary, she was supportive of the matter being dealt with in the terms outlined in the draft undertaking.

In this regard, it was noted that the District Court conviction was subsequently overturned by the Circuit Court. There was, therefore, no conviction outstanding against Mr. O'Leary in relation to the charge. Mr. O'Leary had acknowledged his wrongdoing from the outset and has extensively engaged with Dr. [REDACTED] in relation to this matter and had undergone six-monthly drug testing, the results of which he provided to the PSI.

It was noted on behalf of the Registrar that there was no evidence of Mr. O'Leary in fact consuming cocaine and that the complaint related to possessing the drug.

Finally, Mr. O'Leary had outlined to the Authorised Officers that he had never consumed cocaine before, that this was a lapse in his judgment on the day by accepting it from someone he knew, and that he was immediately caught. He made full admissions and had engaged fully with the process.

**Mr Buttimer** outlined the personal circumstances of Mr. O'Leary and his commitment and contributions to his community.

Looking back, Mr. Buttmer considered that Mr. O'Leary's engagement was, from the outset, honest, respectful and fully demonstrative of his insight and remorse.

The process, across five years at this point, had been a serious burden but now Mr. Buttmer described "*his life is not about anything other than his work and, you know, ordinary things that we all appreciate*". He accepted that his behaviour was less than the standard he should have upheld.

## 4. Legal Assessors Advice

**Mr. Kennedy**, in the presence of all parties provided detailed advice to the Committee on the legal principles it was required to consider and apply. The detail of the proposed undertaking had been provided, the Registrant was prepared to give the undertaking, and the Registrar had indicated her support and the appropriateness of the undertaking, if the Committee were minded to accept an undertaking.

Mr Kennedy advised that if the Committee were minded to both request and accept an undertaking and, secondly, were satisfied as to the extent and the nature of the proposed undertakings, the 2007 Act, as amended provided, that this then brings the complaint to an end.

No issue was taken with any of this advice.

## 5. Decision of the Committee

The Committee, having heard the submissions on behalf of the Registrar and Mr O'Leary and the legal advice received, is satisfied in this case to request and accept from Mr O'Leary, in accordance with the provisions of section 46(1) of the Pharmacy Act 2007, the following undertaking:

*I, Mr Sean O'Leary MPSI, PSI registration number 11913, hereby undertake and consent as follows pursuant to Section 46 of the Pharmacy Act 2007:*

*1. Undertake not to repeat the conduct to which the complaint of the Registrar (complaint reference 695/2022) relates, specifically that I will not at any time have any controlled drugs in my possession other than where required in the course of my employment as a pharmacist or where validly prescribed for me by a registered medical practitioner.*

*2. Consent to being censured by the Council of the PSI.*

The Committee set out its reasons as follows:

1. The Committee was satisfied that it had a very clear understanding of the nature of the case and the extent of the evidence to be adduced on behalf of the Registrar.
2. The Committee had regard to the contents of the Core Book, the nature and extent of the case as outlined by the solicitor for the Registrar and the detailed submissions by the solicitor for Mr. O'Leary.
3. The Committee was satisfied for the following reasons that it was appropriate to request and accept the undertaking from Mr. O'Leary:
  - (a) The Committee had regard to the fact that Mr. O'Leary has been on the register since 30 November 2016 and that the incident the subject matter of this complaint occurred on 5 May 2019. The incident happened at an early stage in Mr. O'Leary's career as a pharmacist.
  - (b) The Committee had regard to the factual background and the forthright way Mr. O'Leary dealt with the criminal proceedings against him, pleading guilty to the offence charged. The Committee noted that on appeal the Circuit Court fully overturned the decision of the District Court, leaving Mr. O'Leary without a criminal conviction on the basis that he made a charitable donation.
  - (c) The Committee attached significant weight to the forthright manner in which Mr. O'Leary has engaged with the disciplinary process throughout. In this regard, the Committee noted that Mr. O'Leary attended for voluntary cautioned interview with the Authorised Officers and made full and candid admissions in relation to the incident and his unlawful possession of a controlled drug.
  - (d) Based on all the information before it, the Committee is satisfied that this was very much a once off incident arising from a very serious lapse of judgment on the part of Mr. O'Leary while under the influence of alcohol. For the avoidance of doubt, the Committee wishes to emphasise that the possession of any controlled drug by a registered pharmacist (other than in the course of his or her employment or on foot of a valid prescription is conduct) is extremely serious and cannot be tolerated. The consumption of excessive alcohol does not constitute an excuse.
  - (e) The Committee attached significant weight to the fact that as far back as 2020, and of his own volition, Mr. O'Leary attended the Practitioners Health Matters Programme. He underwent a full mental health assessment and a substance abuse assessment. Urine screening and hair sampling was undertaken. Of note, no substance was identified in any of the samples provided.

- (f) The Committee had regard to Dr. [REDACTED] opinion that (i) Mr O'Leary does not have a substance misuse issue or any underlying mental health issue; (ii) Mr. O'Leary had engaged honestly and fully with the programme (iii) she found him to be reflective and having good insight into his error in judgment; (iv) she found him to be respectful of his ethical obligations and to have an understanding that the use of substances is not consistent with his role of pharmacist.
- (g) The Committee also attached weight to the fact that again in 2022 Mr. O'Leary submitted further hair and urine samples for testing and that the results were negative.
- (h) The Committee noted that Mr. O'Leary also attended [REDACTED], Counsellor and Psychotherapist, for therapy and had regard to the contents of her letter.
- (i) The Committee noted that Mr. O'Leary was supported by impressive testimonials from his employer, [REDACTED] MPSI and another fellow pharmacist, [REDACTED] MPSI. Both speak extremely highly of Mr. O'Leary and his qualities as a pharmacist.
- (j) In particular, the Committee attached weight to the fact that Mr. O'Leary enjoys the full support of his employer, [REDACTED], a pharmacist of many years standing, with whom he has worked for a period of approximately five years. [REDACTED] has expressed full confidence in Mr. O'Leary. The Committee notes that the trust and confidence reposed in Mr. O'Leary is reflected by the fact that, in intervening years, Mr. O'Leary has been promoted to the position of supervising pharmacist and is to have an interest in the business. According to [REDACTED], Mr. O'Leary has special qualities, is empathetic and goes out of his way to advocate for patients. He is trusted by the community and has progressed the role of the pharmacist in the pharmacy. [REDACTED] further indicates that Mr. O'Leary was very upfront with him, regrets his actions, and has worked tirelessly to become a better person.
- (k) There have been no prior or subsequent issues of concern about the professional conduct of Mr. O'Leary. Thus, Mr. O'Leary came before the Committee with an entirely unblemished record.
- (l) The Committee was satisfied that Mr. O'Leary fully appreciates the gravity of his conduct.
- (m) The Committee had regard to the fact that the Registrar was supportive of the undertaking.
- (n) The Committee had regard to the fact that Mr. O'Leary has had the matter hanging over him for a considerable period.

- (o) The Committee was satisfied that Mr. O'Leary has apologised fully, is genuinely remorseful, demonstrated acceptance of his grave error of judgment and has shown good insight such that the Committee was satisfied that he fully understands his professional obligations and responsibilities as a pharmacist and that there are no circumstances in which it is tolerable for a registered pharmacist to be in possession of a controlled drug (outside of employment or on foot of a valid prescription).
  - (p) The Committee considered the case to have been a salutary lesson for Mr. O'Leary.
  - (q) The Committee has attached significant weight to the fact that Mr. O'Leary is consenting to be censured.
  - (r) Based on the information available to it, the Committee is satisfied that Mr. O'Leary does not represent a danger to the public.
- 4. For the forgoing reasons therefore, the Committee requested Mr. O'Leary to provide the undertaking to the Committee in person and to provide it in written form to the solicitors for the Registrar. Having made the request Mr. O'Leary provided the undertaking orally to the Committee.
  - 5. The Committee noted that the undertaking given would be formalised and signed and returned to the PSI by Mr. O'Leary.
  - 6. Finally, the Committee wishes to reiterate in the strongest possible terms that it considers possession of illicit drugs by a pharmacist as extremely grave. It should be emphasised that but for the particular circumstances of this case, including but not limited to Mr. O'Leary's early positive engagement with the process, his co-operation throughout, his full and frank admissions, the impressive testimonials, and the fact that Mr. O'Leary has taken very considerable steps to remediate his conduct and demonstrated very good insight, the Committee would not have requested and accepted the undertaking and this matter would have proceeded to inquiry.

**SIGNED:**



**Dermott Jewell, Chairperson**

**DATE: 22<sup>nd</sup> October 2024**