

PUBLIC RECORD

Dates: 31/01/2024 - 01/02/2024

Medical Practitioner's name: Dr Alain Gabriel MITITELU

GMC reference number: 6051767

Primary medical qualification: Doctor - Medic 1993 Universitatea de Medicina si Farmacie "Grigore T Popa"

Type of case	Outcome on impairment
Review - Deficient professional performance	Impaired

Summary of outcome

Conditions, 18 months
Review hearing directed

Tribunal:

Legally Qualified Chair	Ms Jane Kilgannon
Medical Tribunal Member:	Dr John Garner
Medical Tribunal Member:	Dr Prashanth Nandhabalan
Tribunal Clerk:	Mrs Jennifer Ireland

Attendance and Representation:

Medical Practitioner:	Present, not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Mr James Halliday, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Impairment - 01/02/2024

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Mititelu's fitness to practise is impaired by reason of deficient professional performance.

Background

2. Dr Mititelu qualified from Universitatea de Medicina si Farmacie "Grigore T Popa", Romania, in 1993 and worked in epidemiology and public health in 1999. He came to the United Kingdom in 2007, to pursue a career in psychiatry.

3. From January 2013, Dr Mititelu worked at the Adastra Treatment Centre for drug addiction. From November 2015, Dr Mititelu worked as a Locum Consultant Psychiatrist at Swanswell, a charity treating patients with drug and alcohol dependency. In June 2016, Dr Mititelu began working as a Locum Consultant Psychiatrist in Offender Mental Health in the Norwich prison cluster.

4. Concerns were raised with the GMC in March 2016 by the Care Quality Commission following their inspection of Adastra Treatment Centre. These concerns related to Dr Mititelu's clinical skills and knowledge, clinical practice, prescribing, patient care and record keeping. Dr Mititelu was placed under an interim order in August 2016.

5. Dr Mititelu was referred for a GMC Performance Assessment ('PA') which took place across March and April 2017. The PA involved assessing Dr Mititelu whilst working as a locum consultant psychiatrist, mostly during his time at Swanswell and the Norwich prison cluster. Dr Mititelu's PA showed consistent failures in performance across several domains of Good Medical Practice (2013) ('GMP').

The January 2018 Tribunal

6. Following the conclusion of the PA, Dr Mititelu was referred to a Medical Practitioners Tribunal ('MPT') which took place in January 2018 ('the January 2018 Tribunal').

7. The January 2018 Tribunal considered the findings of the PA to be correct and determined that Dr Mititelu's fitness to practise was impaired by reason of deficient professional performance. It noted the aggravating features of the deficient professional performance including the serious failings in Dr Mititelu's practice that posed a risk to patients but found that they could be remediated with support. As such, the January 2018 Tribunal imposed conditions on Dr Mititelu's license to practise for two years.

The August 2018 Tribunal

8. One of the conditions imposed by the January 2018 Tribunal on Dr Mititelu involved designing an approved personal development plan ('PDP') which he was required to provide to the GMC within three months of his conditions becoming effective. However, Dr Mititelu had been unable to secure a job in order to create a PDP, or a responsible officer to approve it. In correspondence with the GMC, Dr Mititelu explained that he had found it difficult to find a job given the conditions currently placed on his license. A GMC Assistant Registrar considered that it was reasonable to allow an early MPT review so that the conditions could be reconsidered. This occurred in August 2018 ('the August 2018 Tribunal').

9. The August 2018 Tribunal noted that Dr Mititelu had not been working since January 2018 and that the early review hearing was requested by Dr Mititelu to review the conditions on his registration. The August 2018 Tribunal determined that, as it had no new evidence to demonstrate that Dr Mititelu's fitness to practise was no longer impaired, Dr Mititelu's fitness to practise remained impaired by reason of his deficient professional performance on the same basis as the January 2018 Tribunal had found. The August 2018 Tribunal varied the conditions imposed on Dr Mititelu's registration to help him achieve a safe return to practise.

The 2020 Tribunal

10. Dr Mititelu's case was reviewed by a MPT in January 2020 ('the 2020 Tribunal'). It acknowledged that Dr Mititelu had made some progress under the varied conditions imposed by the August 2018 Tribunal. However, it found that Dr Mititelu's insight was at the early stages of development. The 2020 Tribunal was not satisfied that Dr Mititelu had provided sufficient evidence to show he was fit to return to unrestricted practise.

11. The 2020 Tribunal considered that whilst Dr Mititelu had been engaging with the clinical training process, it appeared that he was not capable of working beyond Core Training 1, despite initially taking a role at Core Training 3. This was a matter of concern for the 2020 Tribunal. It noted, for example, that Dr Mititelu's supervisors raised an issue around safe prescribing, which it considered to be a safeguarding risk. It also considered that Dr Mititelu's supervisors' report lacked detailed or positive comments in respect of his clinical progress. The 2020 Tribunal found that this failed to demonstrate remediation on Dr Mititelu's part in relation to the issues raised by his PA. The 2020 Tribunal concluded that Dr Mititelu had not maintained a good level of professional performance and therefore determined that Dr Mititelu's fitness to practise remained impaired by reason of deficient professional performance.

12. The 2020 Tribunal determined that a further period of 12 months conditional registration would be appropriate and permit further time for development, some consistency of supervision and reporting to the GMC, in order to get a reliable observation of his progress.

The 2021 Tribunal

13. Dr Mititelu's case was reviewed by a MPT in January 2021 ('the 2021 Tribunal'). In oral evidence, Dr Mititelu told the 2021 Tribunal that his appraisal had been due to take place in the early part of 2020 but that it had been delayed due to the COVID-19 pandemic. He told the 2021 Tribunal that he had not been able to secure an NHS post since August 2020. The 2021 Tribunal accepted Dr Mititelu's reasons for not having produced his appraisal documents for the hearing.

14. The 2021 Tribunal considered that the evidence provided by and on behalf of Dr Mititelu did not provide objective evidence of progress in addressing the areas of deficient performance. It was of the view this failed to demonstrate remediation on Dr Mititelu's part in relation to the concerns raised. The 2021 Tribunal also noted that there was no objective evidence before it in which Dr Mititelu could demonstrate any Continuing Professional Development ('CPD') he had undertaken.

15. When considering Dr Mititelu's insight, the 2021 Tribunal bore in mind that his view was these matters have gone on for too long; the conditions imposed on his registration were stopping him from securing employment in a medical setting; that he should be allowed to return to unrestricted practise; and that there were no concerns regarding his practice. Dr

Mititelu accepted that he should be supervised and stated that should be the case for all speciality doctors. The 2021 Tribunal considered that whilst Dr Mititelu blamed the fact that he could not secure work because of the GMC conditions, there appeared to have been insufficient structured reflection on the deficiencies previously identified. It determined that whilst Dr Mititelu had some insight, it remained limited. Further the 2021 Tribunal noted that the conditions of practise imposed by the previous reviewing Tribunal for 12 months had in fact only effectively operated for some seven months due to the conclusion of Dr Mititelu's employment in August 2020. The 2021 Tribunal therefore determined that Dr Mititelu's fitness to practise remained impaired by reason of his deficient professional performance.

16. The 2021 Tribunal determined that a further period of 12 months conditional registration would be appropriate to allow more time for Dr Mititelu to address the concerns raised in relation to his performance.

The 2022 Tribunal

17. Dr Mititelu's case was reviewed by a MPT in January 2022 ('the 2022 Tribunal'). The 2022 Tribunal noted that despite best efforts, Dr Mititelu had not worked since the previous review hearing and provided feedback from recruitment consultants that the conditions imposed on his registration remain a key factor in his being unable to obtain employment. However, during the period in which he has not been working as a doctor, the 2022 Tribunal noted that Dr Mititelu had been unable to maintain his skills by undertaking any medical work. The Tribunal considered that Dr Mititelu's focus since the previous hearing had remained on the impact of the conditions on his ability to gain employment and further considered that he had not provided evidence to demonstrate to the Tribunal that he is safe to return to unrestricted clinical practice.

18. The 2022 Tribunal took the view that it could not be satisfied that Dr Mititelu was taking sufficient steps to remediate his deficient performance. It received limited objective evidence of any additional insight or remediation beyond that provided to the 2021 Tribunal and therefore came to the same conclusion as the 2021 Tribunal in that there was no structured evidence of how Dr Mititelu's reflections, or his experience addressed the deficiencies identified. The 2022 Tribunal accordingly determined that Dr Mititelu's fitness to practise remains impaired by reason of his deficient professional performance.

19. The 2022 Tribunal noted that Dr Mititelu had been subject to conditional registration since 2017. It determined that conditional registration remained necessary and appropriate

to allow Dr Mititelu to practise safely whilst also protecting the public. The 2022 Tribunal considered that a further period of 12 months would be a sufficient period of time to enable Dr Mititelu to demonstrate that he had addressed the deficiencies in his practise.

The 2023 Tribunal

20. Dr Mititelu's case was most recently reviewed in an MPT hearing which took place over two days, commencing on 31 January 2023 and concluding on 6 February 2023 ('the 2023 Tribunal').

21. The 2023 Tribunal noted that despite his efforts, Dr Mititelu had not worked since the 2022 Tribunal. Dr Mititelu provided emails from recruitment consultants, who stated that the conditions imposed on his registration remain a key factor in his being unable to obtain employment. The 2023 Tribunal noted that during the period in which he has not been working as a doctor, Dr Mititelu has been unable to maintain his skills by undertaking any medical work. The 2023 Tribunal was of the view that Dr Mititelu had not provided sufficient evidence to demonstrate that he was safe to return to unrestricted clinical practice.

22. The 2023 Tribunal considered Dr Mititelu's CPD. It noted that Dr Mititelu had completed a significant amount, some 71 hours of CPD in clinical, professional, and academic domains. However, it could not be satisfied that he was safe to return to unrestricted clinical practice given the fact that he had been unable to undertake any clinical placements.

23. The 2023 Tribunal took the view that Dr Mititelu had developed further insight since the 2022 Tribunal. However, it was not sufficient to demonstrate to the 2023 Tribunal that Dr Mititelu had fully remediated the deficiencies in his practise or that he had fully developed insight. Overall, it considered that there was insufficient evidence to demonstrate that Dr Mititelu has kept his skill and knowledge up to date, due to him not being in clinical practice. The 2023 Tribunal was of the opinion that public confidence would be undermined if a finding of impairment was not made in a case which involved deficient professional performance that had not been fully remediated. Accordingly, it found Dr Mititelu's fitness to practise remained impaired by reason of his deficient professional performance.

24. The 2023 Tribunal noted that Dr Mititelu had complied with his conditions and was making progress. It therefore determined that maintaining the conditions on Dr Mititelu's practice would meet the needs of the overarching objective, balancing Dr Mititelu's needs with that of the public and the profession. The 2023 Tribunal determined that a further

period of 12 months conditional registration would be appropriate and permit further time for development, some consistency of supervision and reporting to the GMC, in order to get a reliable observation of his progress.

25. The 2023 Tribunal considered it would be likely to assist the reviewing Tribunal if Dr Mititelu provides the following evidence:

- A statement of reflection which specifically focuses and addresses the concerns raised by his Performance Assessment, namely,
 - Maintaining professional performance
 - Assessment of patients' condition
 - Clinical management
 - Record keeping
 - Relationships with patients
 - Working with colleagues
- Copies of his PDP and his annual appraisal documents;
- Any documentary record Dr Mititelu is able to provide of the content of his meeting of his Responsible Officer as set out at condition 5e;
- His CPD diary and proof of CPD activities;
- Reports from his Clinical and Educational Supervisors which detail Dr Mititelu's progress and which evaluate that progress against the PDP;
- Evidence that he has complied with his conditions;
- Any other documents or evidence that may assist the Tribunal.

Today's review hearing

26. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the Rules whether Dr Mititelu's fitness to practise is impaired by reason of deficient professional performance.

The Evidence

27. The Tribunal received documentary evidence which included but was not limited to:

- MPTS Record of Determinations, dated 8 to 17 January 2018;
- MPTS Record of Determinations, dated 13 August 2018;
- MPTS Record of Determinations, dated 21 January 2020;
- MPTS Record of Determinations, dated 29 January to 4 February 2021;
- MPTS Record of Determinations, dated 5 January to 26 January 2022;

- MPTS Record of Determinations, dated 31 January to 6 February 2023;
- Ten CPD certificates, dated between September 2022 and November 2022;
- A certificate of partially satisfactory completion of appraisal, dated 6 December 2023;
- A reference from Dr Mititelu’s Responsible Officer, dated 15 January 2024;
- A statement and written submissions from Dr Mititelu, dated 2 January 2024;
- Reflective pieces prepared by Dr Mititelu relating to: privacy and data protection, record-keeping, continuous education and professional development, relationships with colleagues, and management skills; and
- Evidence of reading and independent study.

Dr Mititelu’s evidence

28. Dr Mititelu provided a written submissions document, dated 2 January 2024, and also gave oral evidence before the Tribunal.

29. Dr Mititelu acknowledged the findings by the past Tribunals, and accepted that he was at fault for the current situation. He stated that he has, over the last few years, worked on his knowledge and proven his commitment to rectifying the mistakes he made. He told the Tribunal that the conditions on his registration were now proving detrimental to his personal and professional growth.

30. Dr Mititelu told the Tribunal that he had been unable to find work since August 2020, and that he had been told by locum agencies that his conditions were the reason for his lack of success. He told the Tribunal he had applied for more than 70 roles and had been unsuccessful each time because of his conditions. He also told the Tribunal he had contacted some organisations to allow him to shadow sessions, but that there had been no availability at the time. He stated that on one occasion his application for voluntary work at an organisation in Manchester had been agreed, but he was not given a starting date and was later told that he was not allowed to work with them, with no specific reason given. Dr Mititelu stated that as he had now been out of work for almost four years, he was struggling to find appropriate references for applications, which made it harder to successfully gain employment.

31. In response to questions from the Tribunal, Dr Mititelu told the Tribunal that he would be confident returning to work at a staff grade or associate specialist role. He stated that he had held these roles previously and would be safe to practice unrestricted at that level.

32. Dr Mititelu also told the Tribunal that he had undergone an appraisal on 6 December 2023, through an agency with which he is registered. He told the Tribunal that in the appraisal he had been honest about his current employment situation, and that when he is successfully back in employment, he would be able to complete those outstanding sections of his appraisal related to clinical practise.

Submissions

33. On behalf of the GMC, Mr Halliday submitted that Dr Mititelu's fitness to practise remained impaired by reason of his deficient professional performance.

34. Mr Halliday submitted that this case had a long history and conceded that there has been a great deal of improvement in terms of Dr Mititelu's insight and attitude towards the proceedings. However, he submitted that it is one of those cases where not enough has been done to satisfy that there is no longer impaired fitness to practise. He submitted that there is a lack of objective evidence before the Tribunal to show that the areas of deficient performance have been corrected because Dr Mititelu has not worked in a clinical setting since August 2020, although this was not a criticism.

35. Mr Halliday submitted that Dr Mititelu has submitted significant reflection and demonstrated that he has continued to study whilst he has been out of clinical practice, which goes to demonstrating his insight. However, he reminded the Tribunal that the PA in 2017 highlighted serious deficiencies across all domains of Dr Mititelu's clinical practice. He submitted that ultimately there needs to be a clear assessment as to whether there has been any change, and there was no evidence to show that Dr Mititelu had sufficiently remedied his deficient professional performance. Therefore, he submitted that Dr Mititelu remained impaired by reason of his deficient professional performance.

36. Dr Mititelu submitted that he did not consider his fitness to practise to be impaired. Dr Mititelu stated that the impact upon him of the conditional registration had been akin to a suspension, because he has been unable to obtain any clinical work. He acknowledged that his inability to secure work in a clinical environment prevented him from providing evidence to demonstrate he had remedied the deficiencies identified previously. However, he was of the opinion that he had made improvements in these areas. He stated that the conditions currently in place on his registration were preventing him from finding work and that he

would request that the conditions now be lifted to allow him to return to unrestricted practise.

The Relevant Legal Principles

37. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

38. This Tribunal must determine whether Dr Mititelu's fitness to practise is impaired today, taking into account his performance at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

39. The Tribunal took into account all of the evidence presented, both oral and documentary. It noted that Dr Mititelu has been unable to find work as a doctor since August 2020.

40. The Tribunal had regard to the lack of evidence from colleagues and employers, which it accepted he has been unable to obtain due to his difficulties finding work. It could not ignore that without evidence from someone observing him in a clinical setting, it would be difficult to support a finding of no impairment.

41. The Tribunal took into consideration the oral evidence given by Dr Mititelu. In his evidence, Dr Mititelu was specifically asked by the Tribunal what level he would be confident to work at. He told the Tribunal that he had previously worked as a staff grade or associate specialist, and that he would be safe to return to that role or level. The Tribunal was concerned that a role at this level would naturally come with less supervision. The Tribunal noted that there was a significant discrepancy between the level Dr Mititelu believes that he is safe to work at and the level that he was mandated to work at by the Order of Conditions. It noted that the current conditions restrict Dr Mititelu to working at Foundation Year 2/Core Training 1 due to his clinical performance, and in his last clinical role (whilst he was under the Order of Conditions) he was regraded from a 'Core Trainee 3' to a 'Core Trainee 1'. The Tribunal was concerned that this discrepancy demonstrated a continuing lack of insight, in that it amounts to a failure to recognise the limits of his competency.

42. The Tribunal noted that Dr Mititelu had provided ten CPD certificates, amounting to 13 hours of online learning, that he had undertaken with the Royal College of Psychiatrists between September and November 2022. The topics covered were relevant to the areas of deficient professional performance. However, the Tribunal noted that these courses were no longer recent, having been undertaken more than a year ago, and before the previous review hearing which took place on 31 January and 6 February 2023.

43. The Tribunal noted that Dr Mititelu had provided a certificate confirming that he had undertaken an appraisal on 6 December 2023. It was labelled '*Certificate of Partially Satisfactory Completion of Appraisal*' and was accompanied by a reference from Dr Mititelu's Responsible Officer, dated 15 January 2024, confirming no concerns but noting that he had not worked since August 2020. No documentation relating to the appraisal was provided. Neither was any Personal Development Plan provided. Therefore, whilst the Tribunal considered it positive that an appraisal had taken place, it was not in possession of any detailed information to allow it to understand the quality of assessment that had taken place, nor the depth of planning (if any) that formed part of an action plan for improving performance.

44. The Tribunal also noted Dr Mititelu's oral evidence about the volume of applications for both paid and voluntary posts, and that Dr Mititelu told the Tribunal that he had been unsuccessful due to the order of conditional registration. However, it noted that there was no documentary evidence to support this assertion.

45. The Tribunal acknowledged and commended Dr Mititelu's continued full engagement with his regulator and his clear commitment to improving his professional performance. However, the Tribunal was not satisfied that Dr Mititelu had presented sufficient evidence to demonstrate that he had addressed the outstanding areas of concern in respect of his performance and that his knowledge and skills were up to date. It was concerned that there remained a significant risk to patients if Dr Mititelu were to be allowed to return to unrestricted practise at this stage. Further, the Tribunal was of the opinion that public confidence would be undermined if a finding of impairment was not made in a case which involved deficient professional performance that had yet not been fully remediated and where insight was not fully developed.

46. This Tribunal has therefore determined that Dr Mititelu's fitness to practise is currently impaired by reason of deficient professional performance.

Determination on Sanction - 01/02/2024

47. Having determined that Dr Mititelu's fitness to practise is impaired by reason of deficient professional performance, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to his registration.

Submissions

48. On behalf of the GMC, Mr Halliday submitted that the appropriate sanction in this case was a further order of conditions. He referred the Tribunal to relevant caselaw and to the determinations of the previous Tribunals. He submitted that the imposition of a sanction was a matter for the Tribunal exercising its own independent judgement.

49. Mr Halliday submitted that the conditions should remain in place. He acknowledged Dr Mititelu's assertion that he was unable to find work, but stated that given that the finding of impairment remains in this case, it is important there are safeguards in place to ensure that the public are protected. He accepted that Dr Mititelu has made great strides in his insight and is definitely going in the right direction. However, he submitted that Dr Mititelu still requires oversight, noting the Tribunal's concerns about the lack of documentary evidence and Dr Mititelu's view as to the level of seniority at which he would be confident working.

50. Mr Halliday submitted that Dr Mititelu's current conditions, broadly speaking, are reporting conditions, and do not actually prevent him from practising. He submitted that the conditions currently in place are reasonable and not oppressive and have been amended in the past to help Dr Mititelu more easily gain employment. He submitted that it was unfortunate that there does seem to be a blanket policy by some employers not to accept doctors under conditions, but in the circumstances of this case, conditions are necessary, given the concerns which were raised in the PA and the findings that were made by the January 2018 Tribunal.

51. Dr Mititelu submitted that his behaviour during the GMC PA did not reflect his true character. He submitted that, by nature, he is an empathetic individual, and raising his voice went against the core of who he is. He apologised for his actions during that time. Dr Mititelu submitted that he was under immense pressure and fear at the time of the PA, facing

accusations which were an unprecedented challenge in his life. He emphasised that his outburst was an anomaly, a result of the overwhelming stress he was experiencing and that it does not define the person he is or the medical professional he strives to be.

52. Dr Mititelu submitted that his dedication to the profession is unwavering, and that his former colleagues and patients would attest to the sincerity and commitment he brings to his work. He stated that his track record, of more than 10 years' experience prior to these proceedings, stood as a testament to his dedication to the wellbeing of his patients. He submitted that he understood the gravity of the proceedings, but implored the Tribunal to consider the entirety of his professional life and asked for the opportunity to continue serving in the profession he loved.

53. Dr Mititelu was directed to the existing order of conditions and asked to highlight any which he felt were barriers to him gaining employment. After reviewing the conditions, he was unable to direct the Tribunal to any specific conditions which were causing issue, but highlighted that he felt that some employers found it difficult to cope with conditions, and that perhaps the conditions could be made simpler and made fewer in number.

The Tribunal's Determination

54. The Tribunal is aware that the decision as to the appropriate sanction, if any, to impose on Dr Mititelu's registration is a matter for this Tribunal alone, exercising its independent judgement. In reaching its decision, the Tribunal has taken account of the Sanctions Guidance (November 2020) ('the SG').

55. The Tribunal considered its decision on impairment, the submissions of both parties, and the documentary evidence adduced during the course of these proceedings.

56. The Tribunal recognised that the purpose of a sanction is not to be punitive, although it may have a punitive effect. The Tribunal must impose a sanction if it is required in order to protect patients, maintain public confidence in the profession, and/or meet the wider public interest. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Mititelu's interests with the public interest.

57. In deciding what sanction, if any, to impose, the Tribunal reminded itself that it must consider each of the sanctions available, starting with the least restrictive, to establish which sanction is appropriate and proportionate.

No action

58. The Tribunal first considered whether to conclude the case by taking no action. It noted that to take no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

59. The Tribunal was satisfied that there were no exceptional circumstances in Dr Mititelu's case which could justify it taking no action. It determined that, given the Tribunal's findings in respect of impairment, to take no action, would not be sufficient, proportionate nor in the public interest.

Conditions

60. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Mititelu's registration. It had regard to paragraphs 81, 82, 84 and 85 of the SG, which state:

'81 Conditions might be most appropriate in cases:

a involving the doctor's health

b involving issues around the doctor's performance

c where there is evidence of shortcomings in a specific area or areas of the doctor's practice

d where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.

82 Conditions are likely to be workable where:

a the doctor has insight

b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings

c the tribunal is satisfied the doctor will comply with them

d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.

...

84 *Depending on the type of case (eg health, language, performance or misconduct), some or all of the following factors being present (this list is not exhaustive) would indicate that conditions may be appropriate:*

a no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor’s unwillingness to engage

b identifiable areas of their practice are in need of assessment or retraining

c willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date throughout their working life, improving the quality of their work and promoting patient safety (Good medical practice, paragraphs 7–13 on knowledge, skills and performance and paragraphs 22–23 on safety and quality)

d willing to be open and honest with patients if things go wrong (Good medical practice, paragraphs 55 and 61)

e has insight into any health problems, complies with the guidance on health (Good medical practice, paragraphs 28–30) and will abide by conditions relating to their medical condition, treatment and supervision and will not put patients in danger, either directly or indirectly, as a result of conditional registration.

85 *Conditions should be appropriate, proportionate, workable and measurable.*

61. The Tribunal noted that this was a case where conditions were deemed appropriate previously, and there have been no intentional breaches or other issues identified. The Tribunal was satisfied that Dr Mititelu would comply with an order of conditions on his registration and has been doing so since the last review.

62. The Tribunal considered that, at this stage, a sanction of suspension would be neither appropriate nor proportionate. It considered that an order of conditions would adequately protect patients, and it is clear that Dr Mititelu has shown a willingness to engage with the GMC and the conditions that are currently in place. Further, an order of conditions is the best, direct route for Dr Mititelu to safely return to practise.

63. The Tribunal considered Dr Mititelu's submission that he was unable to find work because of the conditions currently in place and so they effectively amounted to a suspension. It noted that there was no objective evidence before it to support this assertion. Dr Mititelu had previously worked under the imposed conditions, up until August 2020. In addition, Dr Mititelu had not provided any documentary evidence demonstrating that employers had specifically rejected his applications due to his conditional registration. Furthermore, Dr Mititelu was asked by the Tribunal to highlight any specific conditions that might be preventing him from gaining employment, but he was unable to do so. For these reasons, the Tribunal was not persuaded by Dr Mititelu's submissions that the conditions were preventing him from finding work and did not agree with his assertion that the current conditions effectively amount to a suspension.

64. In all the circumstances, the Tribunal considered that imposing conditions on Dr Mititelu's registration was the appropriate sanction required to protect the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of the profession.

65. The Tribunal has considered the range of conditions that are necessary in this case. A proportionate approach led the Tribunal to impose the least restrictive conditions it considered were appropriate. The Tribunal decided to maintain all of the current conditions and to add one further condition, standard condition C9 (listed as condition 7 below), on the basis that there was no clear reason for that standard performance condition to be omitted and it appeared to be appropriate in the context of this case to provide for the possibility of a future performance assessment by Dr Mititelu.

66. The following conditions will be published:

- 1 He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:
 - a the details of his current post, including:

- i his job title
 - ii his job location
 - iii his responsible officer (or their nominated deputy)
 - b the contact details of his employer and any contracting body, including his direct line manager
 - c any organisation where he has practising privileges and/or admitting rights
 - d any training programmes he is in
 - e of the contact details of any locum agency or out of hours service he is registered with.
- 2 He must personally ensure the GMC is notified:
- a of any post he accepts, before starting it
 - b that all relevant people have been notified of his conditions, in accordance with condition 11
 - c if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings
 - d if any of his posts, practising privileges or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination
 - e if he applies for a post outside the UK

- 3 He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.
- 4
 - a He must have a workplace reporter appointed by his responsible officer (or their nominated deputy).
 - b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his workplace reporter
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.
- 5
 - a He must design a personal development plan (PDP), with specific aims to address the deficiencies in the following areas of his practice:
 - Maintaining professional performance
 - Assessment of patients' condition
 - Clinical management
 - Record keeping
 - Relationships with patients
 - Working with colleagues
 - b His PDP must be approved by his responsible officer (or their nominated deputy)
 - c He must give the GMC a copy of his approved PDP within three months of these substantive conditions becoming effective.
 - d He must give the GMC a copy of his approved PDP on request.
 - e He must meet with his responsible officer (or their nominated deputy), as required, to discuss his achievements against the aims of his PDP.
- 6
 - a He must have an educational supervisor appointed by his responsible officer (or their nominated deputy)

- b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his educational supervisor
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his educational supervisor.

- 7 He must undertake an assessment of his performance, if requested by the GMC.

- 8 He must personally ensure his performance assessment report dated 23 May 2017 is shared with:
 - a his responsible officer (or their nominated deputy)
 - b the responsible officer of the following organisations:
 - i his place(s) of work, and any prospective place of work (at the time of application)
 - ii all his contracting bodies, and any prospective contracting body (prior to entering a contract)
 - iii any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)
 - iv any locum agency or out of hours service he is registered with
 - v If any organisation listed at i) – iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify the correct person, he must contact the GMC for advice before working for that organisation.

- c the approval lead of his regional Section 12 approval tribunal (if applicable) - or Scottish equivalent
 - d his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts)
 - e his workplace reporter and educational supervisor and clinical supervisor.
- 9 He must only work as a foundation or core trainee doctor level, for a period of not less than three months. This would include any locum or fixed term contracts.
- 10 a He must be closely supervised in all of his posts by a clinical supervisor, as defined in the Glossary for undertakings and conditions. His clinical supervisor must be approved by his responsible officer (or their nominated deputy).
- b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his clinical supervisor and approved his supervision arrangements
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his clinical supervisor and his supervision arrangements.
- 11 He must personally ensure the following persons are notified of the conditions listed at 1 to 10:
- a his responsible officer (or their nominated deputy)
 - b the responsible officer of the following organisations:

- i his place(s) of work, and any prospective place of work (at the time of application)
 - ii all his contracting bodies and any prospective contracting body (prior to entering a contract)
 - iii any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)
 - iv any locum agency or out of hours service he is registered with.
 - v If any of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify this person, he must contact the GMC for advice before working for that organisation.
- c the approval lead of his regional Section 12 approval tribunal (if applicable) - or Scottish equivalent
- d his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

Length of order

67. Having determined to impose a further order of conditions, the Tribunal considered the length of the order of conditional registration. The Tribunal determined to impose conditions for a period of 18 months to allow Dr Mititelu the opportunity to obtain employment as a doctor and have enough time to work in that role in order to demonstrate sufficiently improved performance in the identified areas.

Review

68. The Tribunal determined to direct a review of Dr Mititelu's case. A review hearing will convene shortly before the end of the period of conditional registration. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Mititelu to demonstrate how he

has remedied his deficient professional performance. It therefore may assist the reviewing Tribunal if Dr Mititelu provides:

- Evidence that he has complied with his conditions;
- Copies of his PDP and his annual appraisal documents;
- Objective evidence to demonstrate that he has remedied the concerns raised by his Performance Assessment, namely,
 - Maintaining professional performance
 - Assessment of patients' condition
 - Clinical management
 - Record keeping
 - Relationships with patients
 - Working with colleagues
- Any documentary record of meetings with mentors, supervisors and his Responsible Officer;
- His updated CPD diary and proof of CPD activities;
- Reports from his Clinical and Educational Supervisors which detail Dr Mititelu's progress and which evaluate that progress against the PDP;
- Any references or testimonials from employers, colleagues or patients;
- Evidence of applications for employment and/or other roles, and their outcomes;
and
- Any other documents or evidence that may assist the Tribunal.

69. The Tribunal has directed to impose conditions on Dr Mititelu's registration for a period of 18 months. The MPTS will send Dr Mititelu a letter informing him of his right of appeal and when the direction and the new sanction will come into effect. The current order of conditions will remain in place during the appeal period.

70. That concludes the case.