

**PUBLIC RECORD****Dates:** 31/07/2024 - 02/08/2024

**Medical Practitioner's name:** Dr Andrew GIBSON  
**GMC reference number:** 7277958  
**Primary medical qualification:** MB BCh BAO 2012 Queens University of Belfast

Type of case	Outcome on facts	Outcome on impairment
New - Conviction	Facts relevant to impairment found proved	Impaired

**Summary of outcome**

Erasure

Immediate order imposed

**Tribunal:**

Legally Qualified Chair	Mr Stephen Killen
Medical Tribunal Member:	Dr Farhan Munawar
Medical Tribunal Member:	Dr Alan Smith
Tribunal Clerk:	Mr Sewa Singh

**Attendance and Representation:**

Medical Practitioner:	Not present, not represented
GMC Representative:	Miss Jade Bucklow, 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.

## Determination on Facts - 31/07/2024

1. Throughout the decision-making process, the Tribunal has borne in mind the statutory overarching objective as set out in s1 of the Medical Act 1983 (the 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.

### Background

2. Dr Gibson qualified in 2012 from the Queens University of Belfast.

3. The background events which have given rise to this hearing are that on 7 December 2023 Dr Gibson was convicted of the following at Laganside Magistrates' Court:

- two counts of obtaining sexual services from another person in exchange for payment made or promised by him;
- one count of possession of one indecent photograph of children;
- one count of possession of two extreme pornographic images.

4. As a result of these convictions, Dr Gibson was sentenced to a Probation Order for one year and six months, and he became subject to notification requirements under Part 2 of the Sexual Offences Act 2003 for five years.

5. These matters came to the attention of the General Medical Council ('GMC') following a letter received from the Police Service of Northern Ireland (PSNI) on 1 April 2022.

### The Outcome of Applications Made during the Facts Stage

6. The Tribunal accepted submissions by Miss Bucklow, counsel for the GMC, that Notice of the Hearing and Allegation have been served on Dr Gibson in accordance with Rule 40 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules').

7. The Tribunal granted Miss Bucklow's application, made pursuant to Rule 31 of the Rules, that the Tribunal should proceed to hear the case in Dr Gibson's absence.

8. The Tribunal's full decision on these matters is included at Annex A.

9. The Tribunal also granted an application by Miss Bucklow to amend the Allegation under Rule 17(6) of the Rules. The Tribunal's full decision on the application is included at Annex B.

### The Allegation and the Doctor's Response

10. The Allegation made against Dr Gibson, as amended, is as follows:

That being registered under the Medical Act 1983 (as amended):

1. On 7 December 2023 at Laganside Magistrates' Court you were convicted of **the following offences**: **(Amended under Rule 17(6))**
  - a. between 15 and 18 June 2021, **you** obtained sexual services from another person in exchange for payment made or promised by you, contrary to Article 64A(1)(a) of The Sexual Offences (Northern Ireland) Order 2008; **(Amended under Rule 17(6))**  
**To be determined**
  - b. on 19 July 2021, **you** obtained sexual services from another person in exchange for payment made or promised by you, contrary to Article 64(1)(a) of The Sexual Offences (Northern Ireland) Order 2008; **(Amended under Rule 17(6))**  
**To be determined**
  - c. on 20 July 2021, **you** had in your possession one indecent photograph of children, contrary to Article 15(1) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988; **(Amended under Rule 17(6))**  
**To be determined**
  - d. on 20 July 2021, **you** were in possession of two extreme pornographic images, contrary to Section 63 of the Criminal Justice and Immigration Act 2008. **(Amended under Rule 17(6))**  
**To be determined**
2. On 20 March 2024 at Newry Courthouse (Magistrates) you were ~~sentenced to~~:
  - a. **sentenced to** a Probation Order for 1 year 6 months; **(Amended under Rule 17(6))**  
**To be determined**
  - b. **became subject to** ~~comply with~~ the notification requirements of Part 2 of the Sexual Offences Act 2003 for 5 years. **(Amended under Rule 17(6))**  
**To be determined**

And that by reason of the matters set out above your fitness to practise is impaired because of your conviction.

**To be determined**

## The Facts to be Determined

11. Dr Gibson was neither present nor represented and no facts were admitted in writing in advance of the hearing. As such, the Tribunal had to make a determination in relation to each paragraph of the Allegation, as set out above.

## Documentary Evidence

12. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited to:

- Correspondence from the PSNI dated 1 April 2022 informing the GMC of matters;
- Certificates of conviction dated 3 June 2024;
- Email correspondence received from the PSNI in relation to the criminal proceedings, dated 21 May 2024;
- The police case summary;
- Transcripts of Dr Gibson’s second Police interview on 13 October 2021 and his third and fourth Police interviews on 6 April 2022;
- A Pre-Sentence Report dated 19 January 2024.

## The Tribunal’s Approach

13. The Tribunal accepted the Legally Qualified Chair’s advice.

14. In reaching its decision on facts, the Tribunal bore in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Gibson does not need to prove anything. The standard of proof applied is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

15. The Tribunal reminded itself that it must form its own judgment about the evidence presented to it.

16. The Tribunal was mindful that its task at this stage is to consider the evidence and submissions and make findings in relation to the factual allegations, which are in dispute. Each paragraph of the Allegation has to be considered separately and in turn.

17. The Tribunal also reminded itself that rule 34(3) of the Rules provides as follows:

“34

...

*(3) Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed.”*

### The Tribunal's Analysis of the Evidence and Findings

18. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

#### Paragraphs 1a, b, c and d, Paragraphs 2a and b

19. The Tribunal has considered these paragraphs together.

20. The Tribunal took account of the certificates of conviction which relate to the offences, as set out in paragraphs 1a – d of the Allegation. It noted that there was no evidence before it to suggest that Dr Gibson denied that he was the person referred to in the certificates.

21. The Tribunal noted that the certificates confirm the information contained within paragraphs 2a and b of the Allegation.

22. The Tribunal was satisfied that, in accordance with the Rules, the certificates of conviction should be accepted as conclusive evidence of the offences committed. It accepted the accuracy of the information recorded in respect of the sentence imposed and the resulting notification requirements.

23. Accordingly, the Tribunal found paragraphs 1a, b, c, d, and 2a and b of the Allegation, proved.

### The Tribunal's Overall Determination on the Facts

24. The Tribunal has therefore made the following findings:

That being registered under the Medical Act 1983 (as amended):

1. On 7 December 2023 at Lagside Magistrates' Court you were convicted of **the following offences: (Amended under Rule 17(6))**

a. between 15 and 18 June 2021, **you** obtained sexual services from another person in exchange for payment made or promised by you, contrary to Article 64A(1)(a) of The Sexual Offences (Northern Ireland) Order 2008; **(Amended under Rule 17(6))**

**Found proved**

b. on 19 July 2021, **you** obtained sexual services from another person in exchange for payment made or promised by you, contrary to Article 64(1)(a) of The Sexual Offences (Northern Ireland) Order 2008; **(Amended under Rule 17(6))**

**Found proved**

c. on 20 July 2021, you had in your possession one indecent photograph of children, contrary to Article 15(1) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988; **(Amended under Rule 17(6))**

**Found proved**

d. on 20 July 2021, you were in possession of two extreme pornographic images, contrary to Section 63 of the Criminal Justice and Immigration Act 2008. **(Amended under Rule 17(6))**

**Found proved**

2. On 20 March 2024 at Newry Courthouse (Magistrates) you were ~~sentenced to~~:

a. **sentenced to** a Probation Order for 1 year 6 months; **(Amended under Rule 17(6))**

**Found proved**

b. **became subject to** ~~comply with~~ the notification requirements of Part 2 of the Sexual Offences Act 2003 for 5 years. **(Amended under Rule 17(6))**

**Found proved**

And that by reason of the matters set out above your fitness to practise is impaired because of your conviction.

**To be determined**

**Determination on Impairment - 01/08/2024**

1. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved, Dr Gibson's fitness to practise is impaired by reason of his convictions.

**The Evidence**

2. In reaching its determination, the Tribunal took into account all the evidence received during the facts stage of the hearing. No further evidence was received at this stage.

## Submissions on Impairment

### On behalf of the GMC

3. Miss Bucklow submitted that Dr Gibson's fitness to practise is currently impaired. She referred the Tribunal to relevant case law, and reminded it of the overarching objective, adding that all three limbs were engaged in this case.

4. Miss Bucklow submitted that, although two of Dr Gibson's convictions – those of obtaining sexual services in exchange for payment – relate to offences which are specific to Northern Ireland, and not the rest of the UK, Dr Gibson was still required to observe the law and reminded the Tribunal that, in his pre-sentence report, Dr Gibson acknowledged that he knew that his actions were illegal.

5. With regard to Dr Gibson's other two convictions – possession of an indecent image of a child (category C), and possession of two extreme pornographic images – Miss Bucklow submitted that these were clearly very serious. Miss Bucklow reminded the Tribunal that, as a result of Dr Gibson's convictions, he is currently subject to an eighteen-month probation order, and also to notification requirements under the Sexual Offences Act 2003, for a period of five years.

6. Miss Bucklow submitted that by their nature, Dr Gibson's offences bring the medical profession into disrepute and significantly undermine public confidence in it. Miss Bucklow referred to the conditions attached to Dr Gibson's probation order, which include the following:

- Dr Gibson must permanently reside at an approved address, and must not leave to reside anywhere without obtaining the prior approval of his probation officer;
- Dr Gibson must not develop any personal relationships without first notifying his probation officer who will take appropriate steps to ensure that verifiable disclosure has been made;
- Dr Gibson must not have unsupervised contact either directly, or indirectly, with children under the age of sixteen or a vulnerable adult without the prior approval of his supervising officer and/or social services.

7. Miss Bucklow submitted that such conditions demonstrate that Dr Gibson is considered a risk to those under sixteen and potentially to vulnerable adults. Miss Bucklow submitted that these conditions might suggest that Dr Gibson's convictions are incompatible with his continued registration on the medical register. She added that Dr Gibson would, due to the nature of his work as a doctor, likely have direct contact with children and possibly with vulnerable adults if his fitness to practise were not found to be impaired.

8. Miss Bucklow referred the Tribunal to paragraph 65 of Good Medical Practice (GMP) (2013 version) and, whilst she acknowledged the Tribunal was not dealing with sanction, she also referenced paragraph 152, which deals with taking, making or sharing of indecent

images, and paragraphs 153 – 154 of the Sanctions Guidance (SG). Miss Bucklow submitted that these paragraphs of SG were applicable in the circumstances of this case and clearly indicate that Dr Gibson’s actions in possessing an indecent image of children and two images of extreme pornography are very serious and may attract a sanction of erasure. She referred to paragraph 154 of the SG which includes the following:

*‘...The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration.’*

9. Miss Bucklow submitted that it therefore follows that a finding of impairment is necessary.

10. In relation to insight and remediation, Miss Bucklow submitted that there was no evidence that Dr Gibson has undertaken any work to address the root cause of his offending, or to reduce any risk of repetition. Miss Bucklow submitted that Dr Gibson has not engaged with his regulator, and there is no evidence of steps he has taken to address the concerns or to remediate his conduct. In these circumstances, Miss Bucklow submitted that there is a risk of repetition.

11. Miss Bucklow submitted that a finding of impairment is justified for the protection of the public, and to maintain public confidence in the medical profession, and to uphold and maintain high standards in the medical profession. She added that a finding of impairment is also required to maintain the public’s confidence in the role of the regulator.

### **The Relevant Legal Principles**

12. The Tribunal reminded itself that, in reaching a decision as to whether Dr Gibson’s fitness to practise is impaired as a result of his convictions, there is no burden or standard of proof, and the decision on impairment is a matter for the Tribunal’s judgement alone.

13. The Tribunal was mindful of the case of *Cohen v GMC (2008) EWHC 581* in which the Court held that the task of the panel, in considering impairment, is to take account of the practitioner’s misconduct and then consider it in light of all the other relevant factors known to them. The Court stated that it will be highly relevant in determining if fitness to practise is impaired to consider:

- whether the practitioner’s misconduct is easily remediable;
- whether the misconduct has been remedied; and
- whether the misconduct is likely to be repeated.

14. The Tribunal must determine whether Dr Gibson’s fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then, such as whether the matters are remediable, whether they have been remedied and any likelihood of repetition. It should also consider whether a finding of impairment is warranted taking into account the wider public interest.



15. Throughout its deliberations, the Tribunal has been mindful of its responsibility to uphold the overarching objective as set out in the Medical Act 1983 (as amended). That objective is the protection of the public and involves the pursuit of the following:

- a. to protect, promote and maintain the health, safety, and wellbeing of the public
- b. to maintain public confidence in the profession
- c. to promote and maintain proper professional standards and conduct for members of the profession

16. The Tribunal considered the overall risk to public safety and the impact of its findings on all three elements of the overarching objective. It also considered whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment was not made.

17. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

*'..the tribunal should consider whether the findings of fact in respect of the doctor. ... show that his fitness to practise is impaired in the sense that he:*

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession...*
- d. has in the past acted dishonestly / or is liable in to act dishonestly in the future.'*

## The Tribunal's Decision

18. The Tribunal first considered whether Dr Gibson's convictions, and his actions leading to those convictions, breached any paragraphs of Good medical practice (2013 version). Taking into account the circumstances of Dr Gibson's convictions and offending, the Tribunal determined that paragraphs 1 and 65 of GMP were engaged in this case. These state:

*'1. Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*

65. *You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession.’*

19. The Tribunal also had regard to the following paragraphs of the Sanctions Guidance 2024 (SG), referred to by Miss Bucklow, which deal with cases involving **‘Sex offenders and child sex abuse materials’**.

*‘151 Any doctor who has been convicted of, or has received a caution for, a sexual offence listed in Schedule 3 to the Sexual Offences Act 2003 must notify the police (register) under section 80 of the Sexual Offences Act 2003 and may need to undertake a programme of rehabilitation or treatment. Sexual offences include accessing and viewing or other involvement in child sex abuse materials, which involves the exploitation or abuse of a child. These offences seriously undermine patients’ and the public’s trust and confidence in the medical profession and breach a number of principles set out in Good medical practice (paragraph 65 regarding honesty and integrity, particularly paragraph 47 regarding respecting patients’ dignity, and paragraph 27 regarding children and young people).*

*152 Taking, making, distributing or showing with a view to being distributed to publish, or possession of, an indecent photograph or pseudo-photograph of a child is illegal and regarded in UK society as morally unacceptable. For these reasons, where there is any involvement in child sex abuse materials by a registered doctor the tribunal should consider whether the public interest demands that their registration be affected.*

*153 While the courts distinguish between degrees of seriousness, any conviction for child sex abuse materials against a registered doctor is a matter of grave concern because it involves such a fundamental breach of the public’s trust in doctors and inevitably brings the profession into disrepute. It is therefore highly likely that, in these cases, the only proportionate sanction will be erasure. However, the tribunal should bear in mind paragraphs 20–23 and 61–111 of this guidance, which deal with the options available to it, and the issue of proportionality. If the tribunal decides to impose a sanction other than erasure, it is important that it fully explains the reasons and the thinking that has led it to impose this lesser sanction so that it is clear to those who have not heard the evidence in the case.*

*154 The tribunal should be aware that any conviction relating to child sex abuse materials will lead to registration as a sex offender and possible inclusion on the Children’s Barred List by the Disclosure and Barring Service under the Safeguarding Vulnerable Groups Act 2006 (as amended).<sup>35</sup> The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. The tribunal will therefore need to make sure that, in cases where it imposes a period of suspension or conditions, the case is reviewed before the end of this period to consider whether a further period is appropriate.’*

20. The Tribunal considered that it was clear from the evidence before it that Dr Gibson had significantly and seriously departed from GMP. The Tribunal considered that being able to trust doctors and be confident that they will act with integrity and within the law is fundamental to ensuring public confidence in medical profession.

21. With regard to the offences of obtaining sexual services for payment, the Tribunal noted that Dr Gibson accepted in his meeting with the probation service prior to sentence that he knew that his actions were illegal. The Tribunal considered that knowingly breaking the law and receiving a criminal conviction clearly amounts to improper conduct on the part of a doctor. Such actions bring the profession into disrepute and undermine public confidence in it.

22. With regard to his convictions for possession of an indecent image of children and possession of two extreme pornographic images, the Tribunal was satisfied that Dr Gibson's actions were extremely serious, were in breach of GMP, as referred to above, and also in breach of a fundamental tenet of the medical profession. Noting the contents of the SG, as quoted, the Tribunal considered that there could be no dispute that these matters brought the profession into disrepute and undermine public confidence in it. Dr Gibson's possession of such images would be considered by patients, the public and fellow doctors as, deplorable, morally unacceptable and disgraceful conduct.

#### Insight, remediation, and risk of repetition

23. The Tribunal considered whether Dr Gibson's conduct and resulting convictions were remediable, whether they had been remedied and whether there was any likelihood of repetition. It also considered the level of Dr Gibson's insight. The Tribunal considered that Dr Gibson's convictions for possession of a category C indecent image of children and possession of two extreme pornographic images could be very difficult to remediate.

24. The Tribunal noted that Dr Gibson has no previous convictions for any offences.

25. The Tribunal was mindful that Dr Gibson pleaded guilty to his offences. However, the Tribunal considered that this was the only evidence before it which could potentially be said to go to the issue of insight. Beyond this, the Tribunal noted that it has received no evidence of steps taken by Dr Gibson to develop insight or any attempts at remediation.

26. Dr Gibson has not engaged with his regulator in relation to this case and he has not provided any evidence demonstrating an understanding of the impact of his actions on patients, colleagues, the medical profession, the wider public interest or public confidence in the medical profession.

27. The Tribunal noted that in the pre-sentence report prepared for his criminal case, Dr Gibson was assessed by probation services as posing a medium risk of reoffending in a two-year period.

28. In the circumstances, the Tribunal considered that there currently exists a risk of repetition.

#### Impairment

29. The Tribunal reminded itself of the purpose of the overarching objective, which is to protect, promote and maintain the health, safety, and wellbeing of the public; to maintain public confidence in the profession; and to promote and maintain proper professional standards and conduct for members of the profession.

30. The Tribunal reminded itself that Dr Gibson is currently subject to a probation order for 18 months and to the notification requirements of the Sexual Offences Act 2003 for five years.

31. Taking into account its view of the evidence and conclusions as outlined above, the Tribunal determined that Dr Gibson's fitness to practise is currently impaired on all three limbs of the overarching objective.

32. The Tribunal considered that, although Dr Gibson's actions occurred outside of a clinical setting and there was no evidence of actual harm to patients, given the nature of the images Dr Gibson possessed, the assessment by probation services and the restrictions imposed by the court regarding contact with minors and vulnerable adults, a finding of impairment of fitness to practise is required to protect, promote and maintain the health, safety, and wellbeing of the public

33. The Tribunal also considered that a finding of impairment is self-evidently required to maintain public confidence in the profession and to uphold proper professional standards. Public confidence in the profession would be undermined if a finding of impairment were not made.

34. The Tribunal therefore determined that Dr Gibson's fitness to practise is impaired by reason of his convictions.

#### **Determination on Sanction - 02/08/2024**

1. Having determined that Dr Gibson's fitness to practise is impaired by reason of his convictions, the Tribunal must now decide in accordance with Rule 17(2)(n) of the Rules what action, if any, it should take with regard to Dr Gibson's registration.

## The Evidence

2. The Tribunal has taken into account the background to the case and the evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

## Submissions

### On behalf of the GMC

3. Miss Bucklow acknowledged that the decision as to the appropriate sanction is a matter for the Tribunal exercising its own judgement but submitted that, in the GMC's view, the appropriate sanction in this case is one of erasure.

4. Miss Bucklow said that the Tribunal should bear in mind the overarching objective as set out in the Medical Act 1983, and submitted that all three limbs were engaged in this case, as found by the Tribunal in its determination on impairment.

5. Miss Bucklow reminded the Tribunal that the conditions in Dr Gibson's probation order were '*protective*' in nature and had been imposed to protect children and vulnerable adults. She added that Dr Gibson's convictions themselves undermined public confidence in the profession and stated that there is a need to maintain proper professional standards.

6. Miss Bucklow stated that the GMC recognised that two of Dr Gibson's convictions – those relating to the payment for sexual services – were not criminal offences in other parts of the UK and that they are specific to Northern Ireland. She stated that, had Dr Gibson's convictions related solely to those matters, the GMC would not in all likelihood be seeking erasure as a sanction. However, Miss Bucklow stated that regardless of whether the offences were common to the entirety of the UK, a doctor is required to abide by the law, and she reminded the Tribunal that, by his own admission during his police interview, Dr Gibson was aware that his actions in this respect were illegal.

7. Miss Bucklow submitted that, taking into account the nature of Dr Gibson's two other convictions – possession of a class C indecent image of children and possession of two images of extreme pornography – the GMC considers that erasure is the appropriate course of action. She submitted that these convictions are so serious and have such a detrimental effect on the medical profession and the society as a whole, that erasure was the only sanction which would meet the needs of the overarching objective.

8. Miss Bucklow referred the Tribunal to the SG (February 2024 version) and highlighted paragraph 154 which states that in cases where the practitioner is subject to the sex offenders register, they should not be allowed to practise unrestricted.

9. Miss Bucklow submitted that a period of conditional registration would not be an appropriate sanction. She submitted that, given the nature of Dr Gibson's work, any

conditions would most likely need to mirror the conditions in the probation order, and this therefore would make any conditions unworkable. Further, she submitted conditions would not sufficiently mark the seriousness of Dr Gibson’s convictions.

10. With regard to a possible sanction of suspension, Miss Bucklow referred the Tribunal to paragraph 97e of the SG and stated that, given that Dr Gibson has not engaged with the GMC, there was no evidence before the Tribunal that he has remediated his conduct nor any evidence of an intention to remediate. Miss Bucklow submitted that there is little evidence of insight in this case. In this regard, Miss Bucklow acknowledged that Dr Gibson pleaded guilty to the offences, and that his pre-sentence report refers to Dr Gibson expressing feelings of shame, regret and disgust at his actions, but she submitted that this did not go enough to suggest that there was an acceptable degree of insight.

11. Miss Bucklow referred the Tribunal to its own conclusions in its determination on impairment that there currently exists a risk of repetition. She submitted that a period of suspension, whilst protecting patients for that period, would not be sufficient to promote and maintain confidence in the medical profession, or to promote and maintain proper professional standards and conduct for members of the profession.

12. Miss Bucklow referred the Tribunal to paragraphs 107 and 109 of the SG which she submitted indicate that erasure is the appropriate sanction in this case. She submitted that paragraphs 109a and 109f are engaged, and added that Dr Gibson’s conduct was a serious departure from GMP. Miss Bucklow submitted that there was no evidence before the Tribunal of remediation by Dr Gibson but, even if there were some such evidence, the Tribunal may consider that the seriousness of his convictions is such that the public interest would not be served if Dr Gibson’s name were not erased from the medical register.

### **The Tribunal’s Approach**

13. The Tribunal noted that the decision as to the appropriate sanction, if any, is a matter for the Tribunal’s own independent judgement, having regard to the SG, the overarching objective and the circumstances of the case. The Tribunal should consider the overarching objective as a whole, not giving excessive weight to any one limb.

14. The Tribunal must bear in mind that the purpose of imposing a sanction is not to punish a doctor for past wrongdoing, however it is an obvious consequence that a sanction may have a punitive effect.

15. In reaching a decision, the Tribunal should evaluate any aggravating and mitigating factors and balance them against each other. It should also again consider whether Dr Gibson’s actions giving rise to his convictions are remediable and whether they have been remediated. It should also consider the level of Dr Gibson’s insight.

16. The Tribunal was mindful that, in reaching a decision on sanction, it should consider the least restrictive sanction first, before moving on to consider the other available sanctions in ascending order of severity.

17. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Gibson's interests with the public interest.

### **The Tribunal's Determination**

18. Before deciding what action, if any, to take in respect of Dr Gibson's registration, the Tribunal considered the aggravating and mitigating factors present in this case.

#### Aggravating factors

19. The Tribunal identified the following aggravating factors in this case:

- Dr Gibson has not engaged at all with the GMC or regulatory process;
- Aside from references in his pre-sentence report for his criminal proceedings to feelings of shame, guilt and remorse, Dr Gibson has not provided any direct evidence to this Tribunal of insight into his actions, or the potential impact of his actions on patient safety, or the impact his actions had on the medical profession and the public interest;
- Dr Gibson has not provided any evidence as to steps he has taken to remediate his conduct;
- Dr Gibson's convictions are for serious offences relating to sexual misconduct and include convictions for possession of one indecent image of children (category C) and two images of extreme pornography.

#### Mitigating factors

20. The Tribunal identified the following mitigating factors in this case:

- Dr Gibson has no previous criminal convictions;
- He has no previous adverse regulatory history with the GMC.

#### No action

21. The Tribunal first considered whether to conclude the case by taking no action. The Tribunal considered paragraphs 68-70 of the SG which highlight that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

22. The Tribunal determined that, given the seriousness of Dr Gibson's convictions and the absence of any identified exceptional circumstances, the Tribunal concluded it would not

be sufficient or proportionate, would not protect the public, and would not be in the public interest to conclude this case by taking no action.

### Conditions

23. The Tribunal next considered whether to impose conditions on Dr Gibson's registration. The Tribunal bore in mind paragraph 82 and 85 of SG:

*'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.'*

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

24. The Tribunal bore in mind that any conditions imposed should be proportionate, workable and measurable, as well as appropriate in the context of the statutory overarching objective.

25. The Tribunal reminded itself of its conclusions regarding insight, remediation and risk of repetition, as previously outlined. It noted the conditions imposed upon Dr Gibson by his probation order, which would need to be reflected in any order of conditions on his registration, and it did not consider that appropriate conditions could be formulated which would be workable and proportionate.

26. Further, the Tribunal again noted the seriousness of Dr Gibson's convictions and, taking account of the aggravating and mitigating factors in this case, it determined that a sanction of conditional registration would not be sufficient to protect the public, maintain public confidence in the profession and uphold proper professional standards.

### Suspension

27. The Tribunal then went on to consider whether imposing a period of suspension on Dr Gibson's registration would be appropriate, proportionate and sufficient to satisfy the overarching objective. In doing so, the Tribunal referred to paragraphs 91 - 93, 97 and 130 of the SG, which read as follows:



'91 *Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*

'92 *Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*

93 *Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions...*

...

97 *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

*a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.*

*b In cases involving deficient performance where there is a risk to patient safety if the doctor's registration is not suspended and where the doctor demonstrates potential for remediation or retraining.*

*c In cases that relate to the doctor's health, where the doctor's judgement may be impaired and where there is a risk to patient safety if the doctor were allowed to continue to practise even under conditions, or the doctor has failed to comply with restrictions or requirements.*

...

*e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.*

*f No evidence of repetition of similar behaviour since incident.*

*g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.*

...

*130 A particularly important consideration in these cases is whether a doctor has developed, or has the potential to develop, insight into these failures. Where insight is not evident, it is likely that conditions on registration or suspension may not be appropriate or sufficient.'*

28. The Tribunal also had regard to paragraphs 31 and 32 of SG which state:

*'31 Remediation is where a doctor addresses concerns about their ... conduct or behaviour. Remediation can take a number of forms, including coaching, mentoring, training, and rehabilitation (this list is not exhaustive), and, where fully successful, will make impairment unlikely.*

*32 However, there are some cases where a doctor's failings are irremediable. This is because they are so serious or persistent that, despite steps subsequently taken, action is needed to maintain public confidence...'*

29. The Tribunal noted that suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbecoming a registered doctor.

30. The Tribunal was mindful that suspension may be appropriate where there has been acknowledgment of fault and where the Tribunal was satisfied that there was a low risk of repetition. In this regard, the Tribunal was mindful that Dr Gibson pleaded guilty to his offences and had indicated to probation services that he has feelings of shame, regret and disgust at his actions.

31. The Tribunal again reminded itself of its conclusions regarding insight, remediation and the risk of repetition, as outlined previously.

32. Overall, the Tribunal concluded that none of factors in the SG which point toward suspension, as set out above, applied to Dr Gibson's case. The Tribunal concluded that suspension would be inappropriate and insufficient to mark the seriousness of Dr Gibson's behaviour, protect the public, uphold proper standards of conduct and behaviour and maintain public confidence in the medical profession.

Erasure

33. Having regard to the SG in relation to erasure, the Tribunal considered that paragraphs 108, 109 (a) and (j) of the SG were particularly relevant:

*‘108 Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.*

*109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).*

*a A particularly serious departure from the principles set out in Good medical practice where the behaviour is difficult to remediate.*

*....*

*j Persistent lack of insight into the seriousness of their actions or the consequences.’*

34. In addition, the Tribunal considered that paragraphs 51, 55e and f, 56c and d, 149 and 150 were engaged in this case:

***‘Lack of insight***

*51 It is important for tribunals to consider insight, or lack of, when determining sanctions. It is particularly important in cases where the doctor and the GMC agree undertakings or the tribunal imposes conditions. The tribunal must be assured that this approach adequately protects patients, in that the doctor has recognised the steps they need to take to limit their practice to remediate.*

***Circumstances surrounding the event***

*55 Aggravating factors that are likely to lead the tribunal to consider taking more serious action include:*

*e sexual misconduct (see paragraphs 149–150)*

*f sexual offences and/or child sex abuse materials (see paragraphs 151–159)*

***Conduct in a doctor's personal life***

56 *Tribunals are also likely to take more serious action where certain conduct arises in a doctor's personal life, such as (this list is not exhaustive):*

*c inappropriate behaviour towards children or vulnerable adults (see paragraphs 145–146 and 151–159)*

*d misconduct involving violence or offences of a sexual nature (see paragraphs 149–150)*

***Sexual misconduct***

149 *This encompasses a wide range of conduct from criminal convictions for sexual assault and sexual abuse of children (including child sex abuse materials) to sexual misconduct with patients, colleagues, patients' relatives or others. See further guidance on sex offenders and child sex abuse materials at paragraphs 151–159.*

150 *Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.'*

35. The Tribunal was also mindful of paragraphs 151 – 154 of the SG, as set out in its determination on impairment, together with paragraph 130, which reads as follows:

*'130 A particularly important consideration in these cases is whether a doctor has developed, or has the potential to develop, insight into these failures. Where insight is not evident, it is likely that conditions on registration or suspension may not be appropriate or sufficient.'*

36. The Tribunal considered that most of the factors in the SG which have been referred to, and which indicate that erasure may be the appropriate sanction, applied in this case.

37. Dr Gibson's convictions are very serious matters and his actions breached both fundamental tenets of the medical profession and individual paragraphs of GMP, as previously outlined.

38. Again, the Tribunal reminded itself of its conclusions regarding insight, remediation and the risk of repetition. Dr Gibson has not provided any evidence to demonstrate that he has attempted to address the concerns identified in this case or the root cause of his behaviour. In this respect, the Tribunal reminded itself that remediation in this case is likely to be particularly difficult in light of the nature of the offences under consideration.

39. Dr Gibson has not demonstrated an understanding of the impact of his actions on patients, colleagues, the medical profession, the wider public interest or public confidence in the medical profession. Dr Gibson has not engaged with his regulator or these proceedings.

40. The Tribunal again noted that, in the pre-sentence report prepared for his criminal case, Dr Gibson was assessed by probation services as posing a medium risk of reoffending in a two-year period.

41. The Tribunal also bore in mind that Dr Gibson is currently subject to his probation order for eighteen months from January 2024, and he is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 for 5 years.

42. In the circumstances of this case, the Tribunal considered that the only proportionate and appropriate sanction which will meet all three limbs of the statutory overarching objective is one of erasure. The Tribunal considered that Dr Gibson's convictions, in particular those relating to possession of one class C indecent image of children and two images of extreme pornography, are incompatible with continued registration as a doctor.

#### **Determination on Immediate Order - 02/08/2024**

1. Having determined to erase Dr Gibson's name from the medical register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order of suspension.

#### **Submissions**

2. On behalf of the GMC, Miss Bucklow submitted that an immediate order is necessary to meet the needs of all three limbs of the overarching objective.

#### **The Tribunal's Determination**

3. The Tribunal took account of the submissions made by Miss Bucklow and the specific basis upon which it had reached its determination on sanction. It also took into account its findings at the impairment stage. The Tribunal had regard to paragraphs 172 to 178 of the SG. Paragraphs 172, 173 and 178 state:

*'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest...*

*173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'*

*178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.'*

4. The Tribunal determined that, given the serious nature of Dr Gibson's convictions, and the need to protect the public, uphold proper standards of conduct and behaviour and maintain public confidence in the medical profession, it is necessary to impose an immediate order in this case.
5. This means that Dr Gibson's registration will be suspended from today. The substantive direction of erasure, as already announced, will take effect 28 days from the date on which written notification of this decision is deemed to have been served, unless he appeals in the interim. If he does appeal, the immediate order will remain in force until the appeal has concluded.
6. The Tribunal revoked the interim order of suspension upon Dr Gibson's registration with immediate effect.
7. That concludes the case.

ANNEX A – 31/07/2024

Application on Service and Proceeding in Absence

Service of Notice of the Hearing

1. Dr Gibson is neither present nor represented at this hearing.
2. Miss Bucklow submitted that the Notice of Hearing had been properly served on Dr Gibson in accordance with the Rules and invited the Tribunal to proceed with the hearing in his absence.
3. Miss Bucklow referred the Tribunal to the GMC's proof of service bundle which included a screenshot of the GMC database showing Dr Gibson's registered address and his registered email address. She reminded the Tribunal that it is the responsibility of Dr Gibson to keep his registered address up to date with the GMC. She added that all reasonable steps had been taken by the GMC and the MPTS to make contact with Dr Gibson.
4. The Tribunal noted that on 5 June 2024, the GMC sent a 'Pathfinder' email to Dr Gibson's registered email address in which it asked him to confirm if he still used the email address, and whether he was happy to receive confidential correspondence from the GMC at the email address. No response was received from the email address except for an automated Microsoft Outlook reply which stated *'delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server.'*
5. On 6 June 2024, the GMC contacted PSNI and the PSNI provided the GMC a contact address they had on file for Dr Gibson, which the PSNI believed to be that of XXX and where they understood Dr Gibson may be residing. On 14 June 2024, the GMC wrote to Dr Gibson at the address provided by the PSNI and asked him to contact the GMC. The Tribunal noted the Royal Mail delivery note which showed that the GMC letter was delivered at 11:09 on 15 June 2024 at the address provided and signed for by a person with the surname 'Gibson'. The GMC received no response or contact from Dr Gibson.
6. Following this, on 21 June 2024, the GMC sent the Notice of Allegation (NoA) to Dr Gibson at his registered address on the GMC database. This letter also included details for today's MPT hearing. The Royal Mail delivery note shows that an attempt was made to deliver the letter on 27 June 2024.
7. The Tribunal noted that the MPTS sent the Notice of Hearing (NoH) to Dr Gibson on 25 June 2024, at the registered address, by special delivery. The NoH contained details of the date and time of the hearing and also stated that the hearing would be conducted virtually. It included details of the proceedings as required by the Rules. The NoH also advised Dr Gibson that the Tribunal can hear and make a decision about his case in his absence under the relevant rule.

8. On 27 June 2024, the GMC sent the Rule 34(9) letter to Dr Gibson at his registered address and advised him of actions he needed to take in relation to this hearing, including to advise the GMC whether he would be attending the hearing and/or if he would be represented, and any documentation he wished to rely upon in presenting his case. The Tribunal noted the Royal Mail delivery note shows that an attempt was made to deliver the letter on 1 July 2024.

9. On 28 June 2024, the MPTS again sent the NoH to Dr Gibson's registered address by first class post, again providing details of today's hearing. This was followed by a further NoA letter from the GMC to Dr Gibson at his registered address.

10. From the information before it, the Tribunal was satisfied that all reasonable efforts had been made by the GMC and the MPTS to serve the NoH on Dr Gibson in accordance with the relevant Rules. The Tribunal was therefore satisfied that the NoH included details of today's hearing and that it had been served upon Dr Gibson in accordance with Rule 40 of the Rules.

#### Proceeding in Absence

11. Having determined that the NoH has been properly served in accordance with the Rules, the Tribunal went on to consider, under Rule 31, whether it should proceed with the hearing in Dr Gibson's absence. In reaching its decision, the Tribunal took into account Miss Bucklow's submissions.

12. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest. It noted that the GMC and the MPTS have made numerous efforts to make contact with Dr Gibson. It took into account that the MPTS NoH makes clear to Dr Gibson that the Tribunal can consider his case in his absence. Despite this, Dr Gibson has not engaged with the GMC or the MPTS. There is no indication from Dr Gibson that he wishes to be present or represented and he has not requested an adjournment. The Tribunal was satisfied from the information before it that there is no reason to believe that an adjournment is likely to result in Dr Gibson's participation at a hearing in the future.

13. The Tribunal was mindful that the concerns in this case are serious such that they could have a detrimental impact on the role of the regulator, the medical profession and the public confidence in the medical profession, if this case were to be adjourned. The Tribunal considered that there is a public interest in disposing of the case expeditiously. In the circumstances of this case, in light of the information before it, the Tribunal considered that there would be no disadvantage to Dr Gibson in his case proceeding in his absence. The Tribunal was satisfied that Dr Gibson had voluntarily absented himself from these proceedings. The Tribunal considered that it may be in Dr Gibson's own interests to proceed with the hearing and to conclude the regulatory matters giving rise to this case.



14. The Tribunal was satisfied, given the seriousness of the issues raised in this case, that it was appropriate to proceed with the case in Dr Gibson's absence. It concluded that no useful purpose would be served by adjourning to a later date.

## ANNEX B – 31/07/2024

### Application to Amend the Allegation under Rule 17(6)

#### Submissions on behalf of the GMC

1. On 31 July 2024, (Day 1), Miss Bucklow made an application under Rule 17(6) to amend paragraphs 1 and 2 of the Allegation by the deletion and/or addition of the words, as set out below:

1. On 7 December 2023 at Laganside Magistrates' Court you were convicted of **the following offences:**
  - a. between 15 and 18 June 2021, **you** obtained sexual services from another person in exchange for payment made or promised by you, contrary to Article 64A(1)(a) of The Sexual Offences (Northern Ireland) Order 2008;
  - b. on 19 July 2021, **you** obtained sexual services from another person in exchange for payment made or promised by you, contrary to Article 64(1)(a) of The Sexual Offences (Northern Ireland) Order 2008;
  - c. on 20 July 2021, **you** had in your possession one indecent photograph of children, contrary to Article 15(1) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988;
  - d. on 20 July 2021, **you** were in possession of two extreme pornographic images, contrary to Section 63 of the Criminal Justice and Immigration Act 2008.
2. On 20 March 2024 at Newry Courthouse (Magistrates) you ~~were sentenced to:~~
  - a. **were sentenced to** a Probation Order for 1 year 6 months;
  - b. **became subject to** ~~comply with~~ the notification requirements of Part 2 of the Sexual Offences Act 2003 for 5 years.

2. Miss Bucklow submitted that the amendments above would not change the nature of the Allegation but served to provide clarity regarding Dr Gibson's convictions and the sentence imposed. She submitted that the proposed amendments would more accurately reflect the certificates of conviction. Miss Bucklow submitted that the proposed amendments caused no injustice to Dr Gibson and could be made without prejudice to him.

### The Tribunal's Decision

3. The Tribunal considered Rule 17(6) of the Rules which states:

*'Where, at any time, it appears to the Medical Practitioners Tribunal that—*

*(a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended; and*

*(b) the amendment can be made without injustice,*

*it may, after hearing the parties, amend the allegation in appropriate terms.'*

4. The Tribunal was mindful that Dr Gibson is not present and is not represented at this hearing. It took into account that prior to formally making the application, the GMC had at the request of the Tribunal attempted to make contact with Dr Gibson via the 'pathfinder' email process with a view to making him aware of the application and to provide him with a copy of the proposed amendments. However, no response was received.

5. The Tribunal considered that the proposed amendments could be made without injustice to Dr Gibson. They do not materially change the substance of the Allegation and simply make its wording clearer and more accurate. The proposed amendments serve to more properly capture the information in the certificates of conviction. The Tribunal considered that the amendments were required to ensure that the wording of the Allegation made sense. Accordingly, the Tribunal granted the GMC application to amend paragraphs 1 and 2 of the Allegation, as set out above.