

PUBLIC RECORD

Dates: 03/01/2024 - 29/01/2024

Medical Practitioner's name: Dr Anjali PATEL

GMC reference number: 7031918

Primary medical qualification: MUDr 2008 Charles University Prague

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

Summary of outcome

Erasure
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Tim Bradbury
Lay Tribunal Member:	Mr Darren Shenton
Medical Tribunal Member:	Dr Nagarajah Theva
Tribunal Clerk:	Miss Maria Khan

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Mark Ainsworth, Counsel, instructed by Weightmans
GMC Representative:	Ms Susie Kitzing, Counsel

Attendance of Press / Public

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

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 Facts - 19/01/2024

1. This determination will be handed down in private. However, as this case concerns Dr Patel's misconduct a redacted version will be published at the close of the hearing.

Background

2. Dr Patel qualified in Medicine in 2008 from Charles University, Prague. Prior to the events which are the subject of the hearing Dr Patel was a GP trainee in the Chesterfield GP Specialty Training Programme from August 2010 to November 2013. Dr Patel gained her MRCGP qualification in 2013 and currently works as a GP XXX in Sheffield, as well as undertaking locum posts at other GP practices.

3. The allegation that has led to Dr Patel's hearing can be summarised as that Dr Patel dishonestly created a number of letters purporting to be correspondence from Person A, XXX. One of the letters had been sent to the GMC by Dr Patel in relation to an investigation into her conduct and three of the letters were entered into her XXX records. It is alleged that Dr Patel knew the correspondence had not been prepared by or on behalf of Person A or Person B and that she caused the letters to be entered into her XXX records. It is further alleged that Dr Patel made untrue statements to Person C concerning her health and family circumstances, and dishonestly signed a mentor's agreement stating she was not subject to an investigation or fitness to practise proceedings when she knew that was not the case.

Correspondence to the GMC and Additional Letters

4. Concerns were raised with the GMC in October 2020 by Dr D from the Trust, regarding some allegedly forged correspondence XXX. This correspondence was said to have been provided to the Trust in March 2020 by XXX (Dr E) and indicated that Dr Patel may have forged XXX letters from the Trust XXX.

5. The GMC contacted Dr D on 23 October 2020 with a further letter (Letter One), XXX, and requested a review of the Trust's records in order to confirm the veracity of Letter One. The letter was purported to have been dictated on 25 November 2011 and signed electronically by Person A, to be sent to XXX. Dr Patel had originally provided Letter One to the GMC by fax on 1 December 2015 in response to a GMC investigation into her fitness to practise which had been instigated, following concerns raised by Person C. That investigation

had been closed in 2016 with no further action being taken at that time but the investigation was reopened following the concerns raised by Dr D.

6. The letters provided by XXX Dr E, to Dr D in March 2020 were purportedly from the Trust from Person A, Person B and XXX.

7. Dr E had seen a Word document on Dr Patel's laptop in 2014 which looked like a hospital letter. Despite thinking it odd at the time he did not challenge Dr Patel on this. XXX Dr E found some letters in a pile of XXX documents XXX, amongst them were copies of Letters Two and Three, XXX. There was also a letter similar but not identical to, Letter Four. Dr E noted there was no NHS number on these letters and that the signatures on some of them appeared similar to Dr Patel's writing style.

8. Dr E had been suspicious for some time that Dr Patel was not being truthful about what she had told him XXX. Having seen the letters, as well as the Word document on Dr Patel's laptop, he took photographs of the letters he found XXX although he did not do anything with them at this time. It was not until January 2019 that Dr E, XXX, sought to verify the authenticity of the letters with Person B and thereafter in March 2020 they were sent to Dr D, it having been confirmed by Person B that they were forgeries. This ultimately led to the second GMC investigation.

9. The GMC requested XXX records and on receipt of these made enquiries XXX. It transpired that three letters that were subsequently found to have been forged were entered on to the XXX system on the same date, 7 July 2012, between five and nine months after they were purported to have been written (Letters Two, Three and Four).

Person C

10. Person C first met Dr Patel in his capacity as GP trainer at Dronfield Medical Practice ('the Practice'). After finishing her exams for GP training, Dr Patel worked at the Practice again between December 2012 and November 2013 with Person C as her educational supervisor.

11. Person C referred Dr Patel to the GMC on 20 August 2015 after he and other staff members at the Practice were led to doubt the veracity of various things she had told them, XXX.

12. Dr Patel also told Person C that her father had died XXX on a cruise, that her mother had XXX and died while Dr Patel was working at the Practice, and that she had a sister who had died of complications following XXX.

13. One of Person C's colleagues knew a practice manager at another practice in Sheffield where Dr Patel had undertaken some locum work. Person C's colleague told Person C that during a conversation with that practice manager it transpired that Dr Patel's parents were alive and in good health, XXX.

14. Person C and a colleague looked at the XXX website and saw that one of the doctors who worked there had the same name as Dr Patel's father on her birth certificate, provided to the Practice when she started work there.

15. Person C XXX found the matter concerning and spoke with the senior partner at the Practice. They felt they had sufficient information to report their concerns to the GMC. Person C contacted the GMC in August 2015, who requested that he put his concerns in writing.

Sheffield Mentorship Scheme

16. In April 2021, Sheffield Local Medical Committee advertised for doctors to act as mentors in their GP Mentoring Scheme. Dr Patel responded to the advert, sending in a personal statement and her CV.

17. Dr Patel was selected to take part in a course training GPs in mentoring on 9-10 June 2021. Some weeks after the course, on 20 July 2021, Dr Patel signed a GP-S Mentoring Agreement declaration confirming she was not currently the subject of any investigation or fitness to practice proceeding by any employer, any licensing or regulatory body in the United Kingdom or any other country.

18. At this time there were two open investigations into Dr Patel's fitness to practise; that following the referral from Dr D and the re-opened investigation following the earlier referral from Person C.

The Outcome of Applications Made during the Facts Stage

19. On day one of the hearing, 3 January 2024, the Tribunal granted Dr Patel's application, made pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that the hearing should, for the most part, be conducted in private session until at least the end of the fact-finding stage.

20. XXX It was accepted that the evidence relating to paragraphs 13-15 of the Allegation did not relate to XXX and any part of the proceedings relating solely to those charges could be conducted in public, going into private should reference be made to XXX. The GMC did not oppose the application.

21. The Tribunal determined to grant the application and emphasised that the appropriateness of the Rule 41 direction may need to be revisited should there be further stages of the hearing.

22. Also on day one of the hearing, the Tribunal granted the GMC's application, made pursuant to Rule 17(6) of the Rules, that an amendment be made to Paragraph 6 of the Allegation. The amendment requested was that Paragraph 6(c)(iii) be moved up to Paragraph

6(b) to become Paragraph 6(b)(vii). The reason for this was that the particular stated to be in Letter Four was in Letter Three. Dr Patel had no objection to the proposed amendment. The Tribunal determined the amendment did not give rise to any possibility of prejudice or injustice to Dr Patel, and that it was simply a correction of a particular evidently contained in Letter Three.

The Allegation and the Doctor's Response

23. The Allegation made against Dr Patel is as follows:

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

Correspondence to the GMC

1. You created or caused to be created a letter purporting to be from Person A, the XXX to Person B ('Letter One'). **Admitted and found proved**
2. Letter One stated that:
 - a. XXX; **Admitted and found proved**
 - b. XXX; **Admitted and found proved**
 - c. XXX; **Admitted and found proved**
 - d. XXX; **Admitted and found proved**
 - e. it had been dictated on 25 November 2011 and was signed electronically by Person A, the XXX to Person B. **Admitted and found proved**
3. You submitted Letter One to the GMC on 1 December 2015 in response to a GMC investigation into your fitness to practise.
Admitted and found proved
4. You knew that Letter One had not been:
 - a. prepared by or on behalf of Person B;
Admitted and found proved
 - b. prepared by or on behalf of Person A;
Admitted and found proved
 - c. signed electronically by Person A.
Admitted and found proved

5. Your actions at paragraphs 1 and 3 were dishonest by reason of paragraph 4.
Admitted and found proved

Additional Letters

6. You created or caused to be created the following letters purporting to be from Person B:
- a. Letter Two which stated:
 - i. XXX; **To be determined**
 - ii. XXX; **To be determined**
 - iii. XXX; **To be determined**
 - iv. XXX; **To be determined**
 - v. it had been dictated on 6 October 2011 and was allegedly signed by Person B.
To be determined
 - b. Letter Three, which stated:
 - i. XXX; **To be determined**
 - ii. XXX; **To be determined**
 - iii. XXX; **To be determined**
 - iv. XXX; **To be determined**
 - v. XXX; **To be determined**
 - vi. it had been dictated on 25 November 2011 and was allegedly signed by Person B.
To be determined
 - vii. XXX **Added by amendment under Rule 17(6)**
To be determined
 - c. Letter Four, which stated:
 - i. XXX; **To be determined**
 - ii. XXX; **To be determined**

~~iii.~~ ~~XXX~~; **Withdrawn under Rule 17(6)**

~~iv~~ iii it had been dictated on or around 25 January 2012 and was allegedly signed by Person B.

Amended under Rule 17(6)

To be determined

7. You caused or allowed the letters at paragraph 6 above to be in your XXX records.
To be determined

8. You knew Letter Two, Letter Three and Letter Four had not been:

a. written by Person B;

To be determined

b. dictated by Person B;

To be determined

c. signed by Person B.

To be determined

9. Your actions at paragraph 6 and/or 7 were dishonest by reason of paragraph 8.
To be determined

Person C

10. On one or more occasions between 2011 and 2013, you told Person C that:

a. ~~XXX~~; **Admitted and found proved**

b. ~~XXX~~; **To be determined**

c. ~~XXX~~; **To be determined**

d. ~~XXX~~.

To be determined

11. The statements you made at paragraph 10a, 10b, 10c and 10d were:

a. untrue;

To be determined

b. known by you to be untrue.

To be determined

12. Your actions at paragraph 10 were dishonest by reason of paragraph 11.
To be determined

Sheffield Mentorship Scheme

13. On 20 July 2021 you signed a mentor’s agreement (‘the Agreement’) which contained the declaration ‘I confirm that I am not currently the subject of any investigation or fitness to practice proceeding by any employer, any licensing or regulatory body in the United Kingdom or any other country.’
Admitted and found proved
14. At the time you signed the Agreement you knew that you were subject to an on-going GMC investigation into your fitness to practise as set out at Schedule 1.
Admitted and found proved
15. Your actions at paragraph 13 were dishonest by reason of paragraph 14.
To be determined

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. **To be determined**

The Admitted Facts

24. At the outset of these proceedings, through her counsel, Mr Mark Ainsworth, Dr Patel made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved. On 11 January 2024, at the conclusion of the GMC’s case XXX, Dr Patel made a further admission to paragraph 5 of the Allegation.

The Facts to be Determined

25. In light of Dr Patel’s response to the Allegation made against her, the Tribunal is required to determine the disputed allegations.

Witness Evidence

26. The Tribunal received evidence on behalf of the GMC from the following witnesses:
- Dr E, XXX, who provided a witness statement dated 4 March 2021 and gave oral evidence by video link on 4 January 2024;
 - Person C, who provided a witness statement dated 29 April 2021 and gave oral evidence by video link on 5 January 2024;

- Ms F, Professional Standards Manager for NHS England and NHS Improvement, who provided a witness statement dated 13 April 2022 and gave oral evidence by video link on 5 January 2024;
- Dr G, former Vice Chair of Sheffield Local Medical Committee, who provided a witness statement dated 4 May 2022 and gave oral evidence by video link on 8 January 2024;
- Dr H, Trainer with the GP-S Mentoring Service, who provided a witness statement dated 20 June 2022 and gave oral evidence by video link on 5 January 2024.

27. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Person A, statement dated 11 December 2020;
- Dr D, Medical Director and Consultant General Physician at the Trust, statement dated 21 December 2020;
- Person B, statement dated 27 January 2021;
- Mr I, Professional Standards Manager for NHS England and NHS Improvement North East and Yorkshire, statement dated 23 August 2022;
- Ms J, Practice Manager at the Practice at the time of the events, statement dated 12 September 2022;
- Mr K, Investigation Officer for the GMC, statement dated 13 September 2022.

28. Dr Patel provided her own witness statement dated 5 May 2023 and also gave oral evidence at the hearing.

XXX

29. XXX

30. XXX

31. XXX

32. XXX

Documentary Evidence

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

- XXX;
- Letter pertaining to Dr Patel's XXX signed in the name of Person A, dated 25 November 2011;

- Photographed XXX letters pertaining to Dr Patel's XXX, including Letters Two, Three and Four, various dates;
- Person C's email referral to the GMC, dated 31 July 2015;
- Referral letter from Person C to the GMC, dated 20 August 2015;
- Person C's notes completed in capacity as Dr Patel's educational supervisor, various dates;
- XXX;
- Letter from Dr Patel notifying Person C that GMC case against her closed, dated 6 May 2016;
- Dr E's email correspondence with Person B, dated 30 January 2019;
- Dr D's email exchange with Ms Person B regarding XXX letters, dated November 2020;
- Letters from the GMC to Dr Patel's representatives requesting XXX;
- XXX;
- XXX;
- Correspondence from XXX about how incoming mail is logged, dated 9 August 2022;
- Email from XXX confirming they held no records for Dr Patel, dated 6 May 2021;
- Further mandate provided by Dr Patel providing authority for GMC to obtain XXX, dated 16 September 2021;
- Pathfinder email to the email address provided by Dr Patel in the XXX, dated 21 September 2021;
- Telephone note of call made to XXX where number was unavailable, dated September 2021;
- Email exchange between GMC and Dr Patel re further contact details for XXX, dated 6-11 October 2021;
- Advert for the GP mentorship programme;
- A copy of the signed GP mentorship agreement that Dr Patel signed which contained a declaration that she was not under any investigation;
- Email from Dr Patel apologising for oversight, dated 28 November 2021;
- Email from Sheffield LMC confirming that no application was submitted and that those interested had to submit a CV and covering letter, dated 30 November 2021.

The Tribunal's Approach

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

35. It is not the case that the more serious the nature of allegation, the higher the standard of proof is required. The Tribunal should take into account the inherent probability or improbability of an event occurring in the sense that a more inherently improbable event will require better evidence to persuade the Tribunal that it happened, but that it is not the case that, the more serious the allegation, the more cogent the evidence needed to prove it.

Hearsay Evidence

36. During the course of the hearing, some hearsay evidence has been admitted; evidence of what others have said relating to the issues before it but who have not themselves given evidence either orally or in an agreed statement.

37. The Tribunal is entitled to have regard to hearsay evidence. However, the Tribunal should give careful consideration to the weight that it should attach to such evidence. In particular, when considering hearsay evidence:

- a) The Tribunal will bear in mind that the maker of the statement has not given evidence on oath and therefore they have not confirmed that they said that which they are reported to have said.
- b) There has not been an opportunity for the maker of the statement to be cross-examined, or challenged, in relation to the statements attributed to them, for example; whether the statements were made, whether they have been accurately reported or the context and/or sense in which the statement was made. Furthermore, the Tribunal has not had the opportunity to assess the credibility, or reliability, of the maker of the statement.

Inferences

38. The Tribunal may draw inferences from the evidence before it, that is to say, to draw common sense conclusions from reliable evidence that it accepts. However, it must not speculate as to matters about which it has not heard evidence or sufficient evidence.

XXX

39. XXX

Dishonesty

40. Where relevant to its decision-making process, the Tribunal will have regard to the test for dishonesty set out in *Ivey v Genting Casinos (UK) Limited (t/a Crockfords Club)* [2017] UKSC 67, which states:

‘When dishonesty is in question the fact-finding Tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the

(objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'

Motive

41. In determining the issue as to whether Dr Patel acted dishonestly it is not necessary for the Tribunal to determine whether Dr Patel had a motive to do so. However, the question of motive is a matter to which the Tribunal should have regard because it may be the Tribunal's experience of life that generally people do not act dishonestly unless they have some motive, or reason for doing so. Therefore the presence or absence of a motive for Dr Patel to act dishonestly whilst not being determinative, is one of the matters to which the Tribunal should have regard when considering whether the allegation(s) are made out.

Cross-Admissibility

42. The Tribunal is entitled, where appropriate, to consider cross-admissibility, i.e. in what circumstances the evidence of misconduct alleged in one paragraph of the Allegation may be admissible in support of another paragraph of misconduct and vice-versa. The Tribunal followed the advice given by the Legally Qualified Chair ('LQC') in this regard.

The Tribunal's Analysis of the Evidence and Findings

43. 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. The Tribunal also considered the submissions of both parties.

XXX

44. XXX

45. In these circumstances XXX, it was indicated on behalf of Dr Patel that she now wished to admit paragraph 5 of the Allegation, which the Tribunal recorded as admitted and found proved.

46. In respect of the remaining paragraphs that alleged dishonesty, Dr Patel did not rely upon XXX as a defence to the allegations. Rather, she denied in relation to paragraphs 6-9 that she had any knowledge of, or anything to do with, the creation of Letters Two, Three or Four, or causing them to be entered into her XXX records. In relation to paragraphs 10-12, she denied making the statements attributed to her by Person C. As to paragraphs 13-15, Dr Patel maintained that her signing of the declaration in relation to the Mentor's Agreement that she was not currently subject to any FTP proceedings had been a mistake on her part and had not been deliberate. Therefore her actions in this regard had not been dishonest.

47. In these circumstances the Tribunal considered it was unnecessary at this stage of the hearing to consider XXX because this would not have any bearing on whether the Tribunal

found the disputed facts proved. The Tribunal considered that it was more appropriate for the issues XXX to be considered at the impairment stage.

48. XXX

Paragraphs 1-5

49. Before determining paragraphs 6-12 of the Allegation, the Tribunal considered the circumstances that led to the allegations and admissions in relation to paragraphs 1-5. In particular, the Tribunal gave specific consideration to Dr Patel's assertion, maintained to date, that at the end of XXX. The Tribunal considered that these circumstances were not only relevant to the issues that the Tribunal would need to consider in relation to the disputed remaining paragraphs but also the Tribunal's conclusions in relation to the allegations concerning Letter One might also have a relevance to the view that the Tribunal took on Dr Patel's credibility generally ie if the Tribunal concluded that Dr Patel XXX, and that she has lied and continues to lie about this, then it could have a bearing on her credibility in relation to other disputed facts.

50. The Tribunal were not presented with any evidence that supported Dr Patel's assertion XXX. Furthermore, efforts by the GMC to identify XXX, had proved unsuccessful. XXX.

51. Despite maintaining that she had documents XXX, Dr Patel had not produced any such documentation. There was no evidence of XXX the sort that one might expect XXX.

52. The Tribunal carefully considered Dr Patel's evidence XXX to be wholly vague and unconvincing.

53. Furthermore, there was nothing in Dr Patel's XXX records XXX and the only documents supporting XXX were those letters that had subsequently been shown to be forgeries. XXX

54. XXX

55. The Tribunal acknowledged that there was no burden of proof on Dr Patel but it could not help but note that it had not received any evidence XXX. The only documents presented before it XXX were forgeries. The Tribunal noted XXX correspondence that was genuine, the content of which could only have been based upon what they had been told by Dr Patel or would have been recorded in the forged letters XXX

56. XXX

57. The Tribunal next went on to consider the circumstances under which Letter One was created and the purpose for which Dr Patel stated it was created; in essence, Dr Patel said that in Autumn of 2012 XXX. She said she had not told her family and friends about XXX but

they had noticed that she was not happy. XXX. Dr Patel said that after discussion with Dr E, and to allay her parents, he suggested that Dr Patel XXX should write a letter XXX as an explanation of why she had not been herself XXX.

58. On the available evidence, the Tribunal was unable to form a definitive conclusion as to when, or in precisely what circumstances, Letter One was created. However, the Tribunal was satisfied on the balance of probabilities that Dr E was not a party to nor was he aware of the creation of Letter One and the Tribunal was satisfied that Dr Patel had created this document on her own. In accepting Dr E's version of events as more likely, the Tribunal exercised care in relation to his evidence and acknowledged that in the circumstances he could have had a motive not to tell the truth, XXX. Nevertheless, the Tribunal accepted his evidence XXX.

59. Dr E gave a clear and detailed account XXX, and how over time he had become suspicious as to what he was being told XXX. Dr E XXX flatly refuted Dr Patel's account regarding the joint creation of Letter One to placate her parents. Further, the Tribunal noted a similarity between that which Dr E was told by Dr Patel XXX and that which Dr Patel had reported to Person C and, it would appear, persons XXX.

60. By contrast, the Tribunal found Dr Patel's account to be implausible, lacking in detail and wholly unconvincing. Despite Dr Patel asserting that she recalled the "*moral dilemma*" that she had experienced when creating a letter that she knew to be a forgery, the Tribunal considered it significant that she was unable to recall any detail as to when, where, how, or whether it was Dr E or herself who physically created this fraudulent document.

Paragraph 6

61. The Tribunal first considered whether it was satisfied that Letters Two, Three and Four were created by the same individual. The Tribunal determined that on the balance of probabilities that they had been created by the same individual and they had not been created by different people or independently of each other.

62. In reaching this conclusion the Tribunal had regard to the evident similarities between the letters and Letter One; all were written on the Trust letter-headed paper (a Trust for which Dr Patel had previously worked), spoke of the same condition, used the same terms and referred to the same people.

63. Having concluded there was a common author/creator, the Tribunal went on to consider who had been responsible for creating these additional letters. As with Letter One the Tribunal found that realistically there were only two possible candidates; either Dr Patel or Dr E, or both together.

64. The Tribunal rejected the possibility that Dr E created Letters Two, Three or Four either with, or independently of, Dr Patel. It was suggested on behalf of Dr Patel that, even if Dr E had not been involved in creation of Letter One, as the Tribunal has found, it was

possible that Dr E could have learned of the creation of Letter One and subsequently decided, independently of Dr Patel, to create similar letters with XXX some malicious or malevolent purpose.

65. The Tribunal rejected this suggestion and considered that at the time these letters had been created XXX, there was no reason for Dr E to go to such elaborate lengths XXX. The Tribunal could conceive of no possible motive that Dr E would, at this time have embarked upon and endeavoured to create three different and convincing forged letters and then, by some means, had them inserted into Dr Patel's XXX records. The Tribunal questioned why he would do so in 2012, some three years prior to the commencement of XXX and seven years before Dr E drew them to the attention of the purported author of the letter, Person A, who thereafter drew them to the attention of Dr D XXX. Further, if Dr E had been involved in the creation of Letter One as Dr Patel maintained, the Tribunal questioned why he would have considered it necessary to go on and forge a further three letters. By contrast, the Tribunal considered that during the relevant time Dr Patel would have had an evident motive XXX.

66. The Tribunal noted that during the period 2011-2013, Dr Patel was working for the Practice and had informed her employers (in particular Person C, her educational supervisor) XXX Furthermore, the Tribunal considered it was likely that Dr Patel would have known that XXX.

67. The Tribunal could conceive no other explanation as to who might benefit from the creation of Letters Two, Three and Four other than Dr Patel and determined, therefore, that it was Dr Patel who had created these additional letters as well as Letter One.

68. Accordingly, the Tribunal found paragraph 6 of the Allegation proved in its entirety.

Paragraph 7

69. Having determined that Dr Patel was solely responsible for Letters Two, Three and Four, the Tribunal went on to consider the circumstances in which those letters came to be within her XXX records. Evidence from the XXX, was that all three letters came in XXX on 7 July 2012. In an email to the GMC dated 16 March 2022, the XXX Practice XXX wrote:

"I cannot say for certain how the letter's[sic] arrived [XXX], but I can say that the only possibilities would be:

- 1) Externally posted via Royal mail [XXX].*
- 2) Handed [XXX] by the patient or associate.*

Internal postage such as round robin would not be possible."

(An earlier note by XXX, to whom Letter One had been addressed, suggested that the letters may have arrived sometime in June 2012 but that their receipt had not been recorded [XXX] until 7 July 2012).

70. Of the two possibilities, the Tribunal was of the view that it was unlikely they were sent in by ordinary post as the letters had different dates on them but arrived on the same day, or at least were scanned XXX on the same day. The Tribunal considered it more likely that it was Dr Patel who delivered, or caused to be delivered, the letters XXX. The Tribunal considered there would be nothing surprising in a patient hand delivering a letter XXX. Furthermore, the Tribunal noted those XXX would have been familiar with Dr Patel XXX. The Tribunal determined it could only have been Dr Patel who caused or allowed the letters (which she had been responsible for creating) to be in her XXX records.

71. Accordingly, the Tribunal found paragraph 7 of the Allegation proved.

Paragraph 8

72. The Tribunal took into account the form and content of Letters Two, Three and Four when determining paragraph 8 of the Allegation, and also their similarities to Letter One:

- All were written on paper with the standard blue XXX letterhead, albeit the Letter Two letterhead was XXX. The Trust address was the same on all letters and all listed Person B's XXX;
- Letters Two, Three and Four were all signed in a similar way as Person B (Letter One had no signature in the manuscript as, Dr Patel told the Tribunal, she had considered signing Letter One was *"a step too far"*);
- The details of XXX was the same in Letters Two and Four, with Letter Three being about a review. In relation to Letters One and Three, the content of the actual letters, while not identical, were remarkably similar and bore the same date;
- Letter Four was an update of Letter Two and identical in terms of XXX but added additional detail referring to XXX which Letter Four purports to have been administered on that day, so would appear that Letter Four purports to update Letter Two.

73. The Tribunal considered it was self-evident that these letters were forgeries and as the creator of the letters, Dr Patel knew they had not been written, dictated or signed by Person B.

74. Accordingly, the Tribunal found paragraph 8 of the Allegation proved in its entirety.

Paragraph 9

75. The Tribunal considered that knowingly forging a letter purporting to be from a XXX with what could only have been an intention to deceive or mislead, is self-evidently dishonest.

76. Accordingly, the Tribunal found paragraph 9 of the Allegation proved.

Paragraph 10

77. The Tribunal considered the dispute between Dr Patel and Person C. On the one hand, Person C maintained Dr Patel said what is set out in the charge. On the other hand, Dr Patel said she did “*not recall*” saying these things but acknowledged that during this period she was under a great deal of stress and agreed she did not have a good recollection of interactions with Person C or others at the Practice.

78. The Tribunal considered that Dr Patel had not suggested that Person C was motivated by any malice or malevolence towards her, neither did the Tribunal consider that any such suggestion would be plausible. Dr Patel’s case was that Person C was simply mistaken or had misunderstood what she had told him XXX.

79. The Tribunal had regard to Person C’s evidence, in which he told the Tribunal that in the beginning, he believed everything he had been told by Dr Patel. It was only when information came from other staff at the Practice that he doubted the veracity of what Dr Patel had been saying.

80. It was obvious to the Tribunal that as Dr Patel’s educational supervisor, Person C was conscientious and took his role seriously and he had also taken on a pastoral role and that at the relevant time he was genuinely concerned as to Dr Patel’s welfare, including her fitness to work XXX. The Tribunal was of the view that Person C, being an experienced GP who was also a trainer, initially had no reason to verify Dr Patel’s assertions. He trusted Dr Patel and initially took what she said at face value.

81. The Tribunal accepted Person C’s unchallenged evidence that he had met Dr Patel and spoken to her on almost a daily basis and that he had a clear recollection of what she had told him XXX.

82. The Tribunal took into account Person C’s response when it was put to him by Mr Ainsworth that Dr Patel did not say she had not said these things but that it was a misunderstanding. Person C was unequivocal that it had happened. The Tribunal considered that when Person C reported the matter, he did so with a clear understanding of his obligation with probity in mind and, from his note, could see that it was just factually accurate and maintained matters that caused him concerns.

83. The Tribunal preferred Person C’s account of interactions with Dr Patel and which was supported by contemporaneous notes. Person C had spent many hours with Dr Patel and refuted her assertion that he had misunderstood her and was mistaken about what she had told him. He told the Tribunal:

“She told me about [XXX] and I contest that she did not say [XXX], she is lying that she did not tell me. I sat with her for many hours and I can swear on the bible that it was mentioned on several occasions.”

84. Not only was the Tribunal impressed by Person C as a witness but, more importantly, the Tribunal considered that there was contemporaneous documentary evidence that supported Person C's recollection of his interactions with Dr Patel. In Person C's contemporaneous educator notes, dated 18 December 2012 and 17 September 2013, there was reference to XXX. The Tribunal was satisfied that this supported paragraph 10(c) and 10(d) of the Allegation.

85. The Tribunal, XXX considered what motive Dr Patel may have for telling Person C untruths XXX. The Tribunal concluded that Dr Patel's motive was to get the help she said she required at the Practice, which included but was not limited to: later start times in the mornings; postponement and extra time for exams; no on-call duties; no CPR; and a delay to an attachment at the Practice. Alternatively, it could simply have been to obtain sympathy and compassion from her employer and colleagues XXX.

86. Generally, the Tribunal did not find Dr Patel a credible witness and there was substantial evidence that at the relevant time she had lied to others, XXX.

87. Accordingly, the Tribunal found paragraph 10 of the Allegation proved.

Paragraph 11

88. The Tribunal, XXX, concluded that these statements made to Person C were XXX untrue and that Dr Patel knew they were untrue.

89. Accordingly, the Tribunal found paragraph 11 of the Allegation proved.

Paragraph 12

90. The Tribunal considered that Dr Patel had been telling her employer and educational supervisor XXX, knowing that to be untrue. The Tribunal concluded that this was self-evidently dishonest.

91. Accordingly, the Tribunal found paragraph 12 of the Allegation proved.

Paragraph 15

92. The Tribunal had regard to the advert for the mentorship role and the Agreement. It found nothing explicitly addressing the matter of any investigation in either the advert or interview. The Tribunal noted that once the matter of the apparently false declaration in the Agreement had been drawn to Dr Patel's attention she did not shy away from this and immediately apologised for her mistake.

93. Further, the Tribunal had regard to Dr Patel's evidence that she had raised the matter of the GMC investigation into her conduct in a role play during her training, and that she had not sought to hide anything, rather that she had used this as an example of what a doctor

may come to a mentor to speak about. The Tribunal considered that this explanation was plausible and there was no other evidence to contradict that this had occurred.

94. While the Tribunal accepted that doctors should not sign any documents without reading them, it also considered that it was a fact of life that this sometimes occurred. The Tribunal further bore in mind the relative importance of the Agreement and that it was not amongst the most important of documents that doctors are routinely asked to sign. It concerned Dr Patel being allowed to act as a mentor and the Tribunal did not consider that it would necessarily be obvious to Dr Patel that a current GMC investigation, yet to be adjudicated upon, would preclude her from becoming a mentor, assuming that she had considered the position at all. The Tribunal noted that the GMC investigation had been pending for nearly six years at the time Dr Patel applied for the mentorship scheme, with no action having been thus far taken.

95. The Tribunal took into account that XXX there had been a considerable lapse of time given between the events as set out in paragraphs 13-15 of the Allegation and the remainder of the Allegation. The Tribunal did not consider that Dr Patel's proven dishonesty XXX established a propensity to act dishonestly in the type of circumstances alleged in paragraph 15. The evidence under paragraph 15 was limited to the fact that Dr Patel had signed a declaration which was not true. Further, the Tribunal did not consider that there was any evidence to support the contention that this was as a result of dishonesty as opposed to a regrettable mistake as a result of a failure to properly read the Agreement.

96. The Tribunal had regard to the fact that the only evidence against Dr Patel was the fact of the declaration itself and as she admitted, it was untrue. However, the Tribunal balanced this with the explanation and evidence given as to the circumstances. Having regard to all those circumstances, the Tribunal considered it entirely plausible that she had not read or sufficiently addressed her mind to the declaration and accuracy thereof and it was a genuine error.

97. The Tribunal concluded that the standard of proof had not been met and, accordingly, found paragraph 15 of the Allegation not proved.

The Tribunal's Overall Determination on the Facts

98. The Tribunal has determined the facts as follows:

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

Correspondence to the GMC

1. You created or caused to be created a letter purporting to be from Person A, the XXX to Person B ('Letter One'). **Admitted and found proved**
2. Letter One stated that:

- a. XXX; **Admitted and found proved**
 - b. XXX; **Admitted and found proved**
 - c. XXX; **Admitted and found proved**
 - d. XXX; **Admitted and found proved**
 - e. it had been dictated on 25 November 2011 and was signed electronically by Person A, the XXX to Person B. **Admitted and found proved**
3. You submitted Letter One to the GMC on 1 December 2015 in response to a GMC investigation into your fitness to practise.
Admitted and found proved
4. You knew that Letter One had not been:
- a. prepared by or on behalf of Person B;
Admitted and found proved
 - b. prepared by or on behalf of Person A;
Admitted and found proved
 - c. signed electronically by Person A.
Admitted and found proved
5. Your actions at paragraphs 1 and 3 were dishonest by reason of paragraph 4.
Admitted and found proved

Additional Letters

6. You created or caused to be created the following letters purporting to be from Person B:
- a. Letter Two which stated:
 - i. XXX; **Determined and found proved**
 - ii. XXX; **Determined and found proved**
 - iii. XXX; **Determined and found proved**
 - iv. XXX; **Determined and found proved**
 - v. it had been dictated on 6 October 2011 and was allegedly signed by Person B.
Determined and found proved

- b. Letter Three, which stated:
- i. XXX; **Determined and found proved**
 - ii. XXX; **Determined and found proved**
 - iii. XXX; **Determined and found proved**
 - iv. XXX; **Determined and found proved**
 - v. XXX; **Determined and found proved**
 - vi. it had been dictated on 25 November 2011 and was allegedly signed by Person B.
Determined and found proved
 - vii. XXX. **Added by amendment under Rule 17(6)**
Determined and found proved
- c. Letter Four, which stated:
- i. XXX; **Determined and found proved**
 - ii. XXX; **Determined and found proved**
 - ~~iii. XXX; **Withdrawn under Rule 17(6)**~~
 - ~~iv~~ iii it had been dictated on or around 25 January 2012 and was allegedly signed by Person B.
Amended under Rule 17(6)
Determined and found proved
7. You caused or allowed the letters at paragraph 6 above to be in your XXX records.
Determined and found proved
8. You knew Letter Two, Letter Three and Letter Four had not been:
- a. written by Person B;
Determined and found proved
 - b. dictated by Person B;
Determined and found proved
 - c. signed by Person B.
Determined and found proved

9. Your actions at paragraph 6 and/or 7 were dishonest by reason of paragraph 8.
Determined and found proved

Person C

10. On one or more occasions between 2011 and 2013, you told Person C that:

- a. XXX; **Admitted and found proved**
- b. XXX; **Determined and found proved**
- c. XXX; **Determined and found proved**
- d. XXX.
Determined and found proved

11. The statements you made at paragraph 10a, 10b, 10c and 10d were:

- a. untrue;
Determined and found proved
- b. known by you to be untrue.
Determined and found proved

12. Your actions at paragraph 10 were dishonest by reason of paragraph 11.
Determined and found proved

Sheffield Mentorship Scheme

13. On 20 July 2021 you signed a mentor's agreement ('the Agreement') which contained the declaration 'I confirm that I am not currently the subject of any investigation or fitness to practice proceeding by any employer, any licensing or regulatory body in the United Kingdom or any other country.'
Admitted and found proved
14. At the time you signed the Agreement you knew that you were subject to an on-going GMC investigation into your fitness to practise as set out at Schedule 1.
Admitted and found proved
15. Your actions at paragraph 13 were dishonest by reason of paragraph 14.
Determined and found not proved

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. **To be determined**

Determination on Impairment - 23/01/2024

99. This determination will be handed down in private. However, as this case concerns Dr Patel's misconduct a redacted version will be published at the close of the hearing.

100. 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 as set out before, Dr Patel's fitness to practise is impaired by reason of misconduct.

The Evidence

101. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary.

Submissions

102. On behalf of the GMC, Ms Kitzing submitted that Dr Patel's fitness to practise is currently impaired by reason of her misconduct.

103. Ms Kitzing submitted that the Tribunal was dealing only with allegations of dishonesty at this stage XXX.

104. Ms Kitzing referred the Tribunal to the case law that, she submitted, was relevant in this case. The case law included: *Cheatle v GMC* [2009] EWHS 645 (Admin); *R (on the application of Calhaem) v GMC* [2007] EWHC 2606 (Admin); *Roylance v General Medical Council (No 2)* [2000] 1 AC 311; and *Nandi v GMC* [2004] EWHC 2317 (Admin).

105. Ms Kitzing then drew the Tribunal's attention to the paragraphs of GMP she said were engaged in this case and also provided an extract from the GMC's *Guidance for decision makers on allegations of low level violence and dishonesty*.

106. Ms Kitzing submitted that this was not a 'low-level' dishonesty case where it might be appropriate for no finding of current impairment to be made. She proceeded to set out the factors as to why the GMC's submission was that Dr Patel's actions amounted to serious misconduct. This was not an isolated incident of dishonesty; rather, this was dishonest conduct carried out on numerous occasions spanning several years.

107. Ms Kitzing referred the Tribunal to its determination at stage one XXX.

108. Ms Kitzing reminded the Tribunal of the statutory overarching objective: 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 the profession.

109. Ms Kitzing acknowledged that there had not been a clear direct risk to public safety and if the first limb of the objective did apply, it would only be in an indirect way. However, in terms of the second limb, Dr Patel's dishonesty had significant potential to undermine public confidence in the medical profession. XXX.

110. Ms Kitzing submitted that Dr Patel's dishonesty had already impacted upon others in the medical profession. In addition to those who were directly affected, such as Person B and C, XXX.

111. Ms Kitzing submitted that Dr Patel's actions had also impacted upon individuals in her personal life, including Dr E, who Dr Patel had sought to blame directly in relation to Letter One and indirectly regarding Letters Two, Three and Four. The Tribunal did not accept Dr Patel's evidence that Dr E was involved in the creation of Letter One and it rejected the possibility that he had been involved in the creation of the other letters.

112. Ms Kitzing reminded the Tribunal of the questions relevant to the determination of impairment set out by Dame Janet Smith in the *Fifth Shipman Report*. Ms Kitzing submitted that while it was slightly less clear whether criteria (a) was fulfilled, it was clear that Dr Patel's behaviour had fulfilled the remaining three criteria.

113. In relation to remediation and insight, Ms Kitzing submitted that it was harder for dishonesty to be remediated. XXX Ms Kitzing told the Tribunal that even now, Dr Patel maintained her (false) account. The factors that led to the GMC questioning any meaningful insight included Dr Patel XXX and her blaming of others. The GMC accepted that Dr Patel made admissions to paragraphs 1-5 of the Allegation, which were recorded as admitted and found proved. However, while she made the admissions to paragraphs 1-4 at the outset of the hearing, her admission to paragraph 5 came only after XXX, another indicator of Dr Patel's level of insight.

114. Ms Kitzing further submitted that fundamental tenets had been breached and the question of remediation was less of a counter-factor to a finding of impairment being made because of the impact upon public confidence.

115. Ms Kitzing submitted that the Tribunal had received comprehensive evidence XXX

116. XXX

117. Ms Kitzing concluded her submission by telling the Tribunal that the overarching objective required a finding of impairment to be made in this case.

118. On behalf of Dr Patel, Mr Ainsworth indicated that on the basis of the facts found proved he was not instructed to make submissions in relation to impairment. However, he made several submissions related to the XXX evidence and the manner in which the Tribunal should have regard to that evidence and which would be relevant at any subsequent sanction stage.

The Relevant Legal Principles

119. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

120. The Tribunal had regard to the submissions made by Ms Kitzing on behalf of the GMC and Mr Ainsworth on behalf of Dr Patel. However, the Tribunal was not bound by those submissions and exercised its own independent judgement upon the issue.

121. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct, and that the misconduct was serious, and then whether, in all of the circumstances, that finding of misconduct led to the conclusion that Dr Patel's fitness to practise is currently impaired.

122. In relation to misconduct, the Tribunal bore in mind the case of *Roylance v General Medical Council (No.2)* [2000] 1 A.C. 311, which provides:

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [medical] practitioner in the particular circumstances.'

123. 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*. In particular, the Tribunal considered whether its findings of fact showed that Dr Patel's fitness to practise is impaired in the sense that she:

'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; and/or

d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

124. The Tribunal reminded itself of the statutory overarching objective 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 the profession.

125. In coming to a conclusion on impairment, the Tribunal was mindful that it was required to consider Dr Patel's fitness to practice as at the present time and looking to the future. A finding of past misconduct or, indeed, past impairment does not necessarily lead to a conclusion of impairment at the present time.

126. The Tribunal must determine whether Dr Patel's fitness to practise is impaired today, taking into account Dr Patel's conduct 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.

127. In considering dishonesty in this case, the Tribunal noted that as set out in the case of *PSA v GMC and Uppal* [2015] EWHC 1304 (Admin), a finding of impairment does not necessarily follow a finding of dishonesty. It also noted the case of *Yeong v GMC* [2009] EWHC 1923 (Admin), where the court held that in actual proven cases of dishonesty, the balance ordinarily can be expected to fall down on the side of maintaining public confidence and the making of a finding of impairment.

The Tribunal's Determination on Impairment

Misconduct

128. In determining whether Dr Patel's fitness to practise is impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amounted to misconduct.

129. Throughout its deliberations, the Tribunal took account of the statutory overarching objective of protecting the public, which includes protecting the health, safety, and wellbeing of the public, maintaining public confidence in the profession, and promoting and maintaining proper professional standards and conduct for the members of the profession.

130. The Tribunal considered that in this case the following paragraphs of GMP were engaged:

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.

68 You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.

71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.

a. You must take reasonable steps to check the information is correct.

b. You must not deliberately leave out relevant information.

72 You must be honest and trustworthy when giving evidence to courts or tribunals. You must make sure that any evidence you give or documents you write or sign are not false or misleading.

a. You must take reasonable steps to check the information.

b. You must not deliberately leave out relevant information.

131. The Tribunal determined that, XXX, Dr Patel's conduct was particularly serious for a number of reasons; XXX; the dishonesty was repeated over a number of years, the purpose of sending Letter 1 in 2015 to the GMC was at least in part, the Tribunal concluded, in order to close down an investigation into Dr Patel's probity and her fitness to practice; Dr Patel had been initially successful in frustrating the investigation instigated by Person C, the dishonesty included causing forged letters XXX. The lies told to Dr Patel's educational supervisor, Person C, resulted in a benefit to Dr Patel, for example XXX, extra time in exams, postponement of training, no on-call duties and various other favourable adjustments to her working conditions that would not have been afforded to her but for her false claim XXX.

132. In these circumstances, the Tribunal considered that, on any view, Dr Patel's conduct found proved or admitted was serious and would be regarded as deplorable not only by fellow practitioners but the general public as well.

133. The Tribunal has concluded that Dr Patel's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

Impairment

134. The Tribunal having found that the facts found proved amounted to misconduct, went on to consider whether, as a result of that misconduct, Dr Patel's fitness to practise is currently impaired.

135. In determining whether a finding of current impairment of fitness to practise was necessary, the Tribunal looked for any evidence of insight, remediation, expressions of remorse or regret, and considered the likelihood of repetition and having regard throughout to the overarching statutory objective. It considered that insight and remediation are

important in order for a doctor to recognise areas of their practice and behaviour that require improvement, and to take appropriate and relevant steps to address them, thus reducing the likelihood of repetition. The Tribunal also acknowledged that it can often be difficult for a practitioner to fully remediate in cases of dishonesty, particularly where a number of the allegations of dishonesty have been denied.

136. The Tribunal acknowledged Dr Patel’s expressions of remorse both in her oral evidence and in her witness statement:

“I am deeply remorseful for my actions and my misjudgement and errors. I have tried to make reparative steps. I would like to offer my sincere apology to Person C, the GMC, Person A, Person B, my clinical colleagues and patients.”

“This episode in my life will never leave me and I am deeply remorseful for the situation currently and my misjudgement and error.”

“To that end, please, once again, accept my sincerest apologies. My words of apology do not fully communicate the extent of remorse I feel.”

137. The Tribunal also took into account the Probity and Ethics Course Dr Patel had taken on 4 December 2021. However, this course did not seem to address the issue as to underlying cause for the misconduct.

138. The Tribunal could find no further evidence of meaningful remediation, or attempts to remediate, and next considered the question of insight. The Tribunal acknowledged the admissions that Dr Patel had made and in particular in relation to paragraph 5 of the Allegation. However, beyond this admission, the Tribunal found little evidence of insight XXX.

139. XXX the Tribunal could not be confident that she would not act in the same way should similar circumstances reoccur.

140. The Tribunal accepted that the dishonesty found proved in this case did not harm patients and it was not of a nature that it was likely to cause any harm to patients. Nevertheless, the Tribunal determined that it could not discount a risk of a harm to patients in the future. This was on the basis that a doctor who was apparently capable of dishonesty of this magnitude XXX, and demonstrating a preparedness to forge XXX letters and to falsify XXX records, could not be regarded as a safe medical practitioner.

141. The Tribunal found that there had been a serious and significant departure from the principles set out in GMP. It considered that dishonest doctors, particularly those who demonstrate dishonesty in the context of medical practice, inevitably bring profession into disrepute. The Tribunal determined that all four parts of the test as set out in *Grant* were engaged in this case. The Tribunal considered that being honest, trustworthy and acting with integrity is at the heart of the medical professionalism.

142. The Tribunal concluded that there had been numerous instances of dishonesty, sustained over several years and in a clinical context. There was no evidence of any meaningful remediation and any such insight Dr Patel had shown was limited. While the Tribunal acknowledged Dr Patel’s admissions, in the absence of remediation and insight the Tribunal considered the risk of repetition was high.

143. In considering whether Dr Patel’s fitness to practise is currently impaired, the Tribunal balanced its assessment of her insight, remediation and the risk of repetition against the statutory overarching objective. While the Tribunal accepted that no direct harm had been caused to patients, it found there was still an indirect risk to patient safety.

144. Dr Patel’s actions have been found by the Tribunal to have undermined public trust and confidence in the medical profession, to have brought the medical profession into disrepute, breached fundamental tenets of the profession and to have constituted a significant departure of the standards required of doctors, as set out in GMP. Accordingly, the Tribunal determined that the second two limbs of the overarching objective were also engaged.

145. The Tribunal was in no doubt that public confidence in the medical profession and the need to uphold proper standards for that profession would be adversely affected if it were not to make a finding of impairment in this case.

146. The Tribunal has therefore determined that Dr Patel’s fitness to practise is currently impaired by reason of misconduct.

XXX

147. XXX

148. XXX

149. XXX

150. XXX

151. XXX

152. XXX

153. XXX

154. XXX

155. XXX

156. XXX

157. XXX

158. XXX

159. XXX

160. XXX

161. XXX

Determination on Sanction - 29/01/2024

162. This determination will be handed down in private. However, as this case concerns Dr Patel's misconduct a redacted version will be published at the close of the hearing.

163. Having determined that Dr Patel's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

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

165. The Tribunal received further evidence on behalf of Dr Patel including:

- Reflective Statement from Dr Patel, dated 24 January 2024;
- Testimonials in support of Dr Patel from colleagues and a fellow medical practitioner;
- A number of 'thank you' cards from Dr Patel's patients;
- Results of 49 Patient Feedback responses for September-October 2022;
- Results of 16 Patient Feedback responses for October 2022;
- 2023 National GP Survey results for XXX;
- Online patient reviews of XXX;
- A 'Health Say' web page showing XXX at position XXX in the '*England's Top 100 GPs 2023*';
- XXX.

Submissions

166. On behalf of the GMC, Ms Kitzing submitted that XXX, this was a case relating to allegations of misconduct and, in her submission, the appropriate sanction in this case was one of erasure.

167. Ms Kitzing reminded the Tribunal of its findings at the impairment stage and referred to relevant case law and paragraphs of the Sanctions Guidance (November 2020 edition) ('the SG') that, she said, were engaged in this case. Ms Kitzing submitted that Sir Thomas Bingham's judgment in *Bolton v The Law Society* [1993] EWCA Civ 32 was applicable when the Tribunal is considering the three limbs of the overarching objective.

168. Ms Kitzing submitted that while the evidence suggested Dr Patel was a good doctor, this did not outweigh the impact her actions had on public confidence in the profession. In relation to the testimonials provided on behalf of Dr Patel, Ms Kitzing submitted that the GMC was not questioning Dr Patel's clinical abilities and the Tribunal should bear in mind what fellow medical practitioners would think of her behaviour in this case, XXX. This was an extremely serious matter with potentially serious consequences for the reputation of the profession.

169. Ms Kitzing referred the Tribunal to the case of *Sawati v GMC* [2022] EWHC 283 (Admin) and the factors set out for a Tribunal's consideration when determining whether or not a doctor's '*rejected defence*' could be considered an aggravating feature. Ms Kitzing submitted that the necessary criteria were all fulfilled, meaning that the '*rejected defence*' could be regarded as an aggravating feature when considering sanction.

170. Ms Kitzing reminded the Tribunal of Dr Patel's defence to the two contested and subsequently proved instances of dishonesty and submitted this was an aggravating factor, XXX.

171. Ms Kitzing then took the Tribunal through the possible sanctions. She submitted that taking no action would not fulfil the overarching objective. This was also not a case where conditions might be appropriate.

172. Ms Kitzing then referred the Tribunal to paragraphs 91, 92, 93 and 97 of the SG, that relate to when suspension would be the appropriate sanction. Ms Kitzing acknowledged that a period of suspension would have a deterrent effect in this case. However, she submitted, the misconduct was so serious and included misconduct directed at Dr Patel's regulator, forging letters using the names of other clinicians and then compounded by dishonesty towards person C and that the deterrent effect would be insufficient to reflect the gravity of the case. Ms Kitzing further submitted that even taking into account the mitigation of the XXX, this was misconduct so serious, going to the heart of the rules and the disciplinary process for the medical profession, that it was nevertheless conduct fundamentally incompatible with continued registration.

173. Ms Kitzing referred to the extent of Dr Patel's acknowledgement of fault and reminded the Tribunal of its findings in relation to insight, remediation and risk of repetition.

She submitted that some of the allegations were still disputed and the Tribunal had found in its previous determination that, XXX, there was a risk of repetition of her dishonest behaviour if Dr Patel XXX. The Probity and Ethics CPD course attended by Dr Patel on 4 December 2021 did not centrally address the misconduct found in this case.

174. XXX

175. Ms Kitzing submitted that based on these factors, suspension was not the appropriate sanction to impose.

176. Ms Kitzing then moved on to the sanction of erasure and submitted that this was necessary to uphold the overarching objective. She took the Tribunal through the factors in paragraphs 108, 109, 120 and 128 of the SG and submitted that although Dr Patel's actions may not have resulted in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility, for example providing false statements, was particularly serious because it could undermine the trust the public places in the medical profession.

177. Ms Kitzing further submitted that health authorities should be able to trust the integrity of doctors and where a doctor undermines that trust, there was a risk to public confidence in the profession. Evidence of clinical competence could not mitigate serious and/or persistent dishonesty and erasure from the medical register was the least restrictive and proportionate sanction in this case to fulfil all the limbs of the overarching objective.

178. On behalf of Dr Patel, Mr Ainsworth acknowledged this was a misconduct case XXX

179. Mr Ainsworth submitted it was factually correct that the last act of dishonesty had taken place in 2015 XXX

180. Mr Ainsworth drew the Tribunal's attention to the numerous testimonials received on behalf of Dr Patel, stressing the fact that the authors had knowledge of the content of the Allegation and the findings of the Tribunal both in respect of the facts and impairment. These testimonials all attested to Dr Patel's clinical competency and also her character.

181. Mr Ainsworth also took the Tribunal through the other evidence introduced at this stage that included patient and colleague feedback, and various surveys of the XXX which demonstrated the very high regard in which Dr Patel's patients hold her.

182. Mr Ainsworth acknowledged that Dr Patel had "*a long way to go*" before she could demonstrate full insight but this did not mean full insight was not possible. The reflective statement she had provided for this stage was evidence that she had started on the journey. XXX

183. Mr Ainsworth submitted that XXX needed to be addressed before full insight could be achieved.

184. Mr Ainsworth submitted that this was an unusual case in which Dr Patel had been dishonest to family, friends and professional colleagues XXX

185. Mr Ainsworth submitted that other mitigating factors were the stressors related to Dr Patel's personal life at the time of the proven misconduct, the lapse of time since the conduct had occurred and that, although she had remained in practice throughout, Dr Patel had not become subject to any new allegations.

186. Mr Ainsworth submitted that the only aggravating factor in this case was the several instances of dishonesty. XXX

187. Mr Ainsworth referred the Tribunal to the case of *Sawati v GMC* [2022] EWHC 283 (Admin) and submitted that, given the factual matters which Dr Patel had disputed, XXX, the principles in *Sawati* might suggest that her '*rejected defence*' was relevant. However, he submitted, this would be to ignore there were two branches to her defence, XXX.

188. Mr Ainsworth accepted that the only two possible sanctions in this case were either a period of suspension, or erasure. He submitted that suspension was the appropriate sanction as although this was a misconduct case, XXX. Mr Ainsworth took the Tribunal through the relevant paragraphs of the SG and submitted that this misconduct could properly and proportionately be met by a period of suspension, sending out a clear message to the public and the profession but allowing Dr Patel to XXX demonstrate that she can remediate these matters and assure the Tribunal that there is no risk of repetition. If that was correct, then the Tribunal need not consider erasure of the doctor.

189. On the issue of erasure. XXX

The Relevant Legal Principles

190. The LQC outlined the relevant legal principles which included but were not limited to the following.

191. The Tribunal should have regard, throughout its decision making process, to the overarching objective and the SG.

192. The Tribunal must bear in mind that the purpose of imposing a sanction is to protect the public and the wider public interest and its purpose is not to punish, although it may have a punitive effect. The Tribunal should consider proportionality, weighing the public interest against the interests of Dr Patel but bear in mind that the reputation of the profession as a whole is more important than the fortunes of any individual doctor (*Bolton v Law Society* [1994] 1 WLR 512).

193. The Tribunal should take a staged approach to its consideration of sanction, starting with the least restrictive until it reaches a sanction that is no more than that necessary and proportionate.

194. The Tribunal should take into account any aggravating and mitigating features and weigh them appropriately against the nature of the facts found proved and the central aim of sanctions; to protect the public, which includes the wider public interest.

The Tribunal's Determination on Sanction

195. Before considering what action, if any, to take in respect of Dr Patel's registration, the Tribunal considered the aggravating and mitigating factors in this case.

Aggravating factors

196. The Tribunal identified the following aggravating factors:

- i) The misconduct constituted repeated and persistent dishonesty over a lengthy period of at least three years XXX;
- ii) The dishonesty was elaborate and calculated XXX. The Tribunal considered the content and format of the letters carefully and concluded that they were not consistent with letters that had been created in panic or without thought. In the Tribunal's judgement they were detailed, convincing and had been carefully drafted and reproduced on headed stationery in order to deceive others including fellow medical practitioners;
- iii) Dr Patel, in her evidence, attributed blame or responsibility for the creation of the forged letters on others, namely XXX Dr E explicitly in relation to Letter one and implicitly in relation to Letters Two, Three and Four;
- iv) The dishonesty was carried out during the course Dr Patel's professional practice;
- v) Beyond Dr Patel's late admission to paragraph 5 of the Allegation during the course of the hearing, and expressions of regret in her witness statement, the Tribunal considered that the position Dr Patel had adopted in her defence to the remaining allegations was untruthful and she knew it to be untruthful and this illustrated the very limited extent of any meaningful insight;
- vi) Whilst acknowledging that dishonesty is always something that is by its nature difficult to remediate, apart from having attended a Probity and Ethics CPD course in December 2021, and her expressions of remorse previously referred to, the Tribunal could find no evidence of any meaningful remediation;
- vii) Dr Patel had put her own interests before the interest of others.

197. In identifying paragraphs (i),(ii),(iii),(v) and (vi) above as being aggravating features, the Tribunal considered the fact that Dr Patel had given an untruthful account in defending the allegations ultimately found proved and a position she still maintains.

198. Before determining that it would be fair and relevant to have regard to Dr Patel's 'rejected defence', the Tribunal had regard to the guidance given by Mrs Justice Collins in *Sawati v GMC* [2022] EWHC 283 (Admin) concerning the potential relevance of a doctor's defence having been rejected by the Tribunal and from which the following principles can be derived;

- i. *Insight is concerned with future risk of repetition. To this extent, it is to be distinguished from remorse for past conduct;*
- ii. *Denial of misconduct is not a reason to increase sanction;*
- iii. *It is wrong to equate maintenance of innocence with lack of insight. Denial of misconduct is not an absolute bar to a finding of insight. Admitting misconduct is not a condition precedent to establishing that the registrant understands the gravity of the offending and is unlikely to repeat it.*
- iv. *However, attitude to the underlying allegation is properly to be taken into account when weighing up insight. Where the registrant continues to deny impropriety, that makes it more difficult for him to demonstrate insight.*
- v. *The assessment of the extent of insight is a matter for the Tribunal, weighing up all the evidence and having heard the registrant.*

199. Having reviewed the authorities relating to cases involving a 'rejected defence' and emphasising that every case will be fact specific, Collins Rice J set out four factors for a Tribunal's consideration when determining whether or not a doctor's rejected defence could be (properly and fairly) considered an aggravating feature;

1) The primary allegations against the doctor. The proper place of dishonesty (or other states of mind such as 'deliberate' 'knowing') in the scheme of the allegations matters. A rejected defence of honesty may be more fairly relevant to an overall assessment of conduct where dishonesty (the noun) is the primary allegation - deceit, fraud, forgery or similar – than where 'dishonestly' (the adverb) is a secondary allegation, aggravating a primary allegation of other misconduct which may or may not be done honestly – or not a formal allegation at all. As Lord Hoffmann emphasised, particular alertness is needed to the 'charging trap': adding 'dishonestly' to a primary allegation to aggravate it disproportionately, colour any denial of the primary allegation with dishonesty, or characterise denial of the dishonesty as itself dishonest or lacking insight. But even short of oppressive charging, the fair relevance to sanction of a doctor's rejected honesty defence depends on its relationship to what they were primarily defending.'

In the Tribunal's judgment the dishonesty found proved in relation to paragraphs 6 - 9 and in relation to paragraphs 10 - 12 the primary allegation was of dishonest (the noun) conduct; The former paragraphs related to the forgery of letters and securing their inclusion in XXX records and with what could only have been an intention deceive/mislead; Paragraph 10 - 12 related to the telling of deliberate lies to person C with what could only have been an intention to deceive or mislead. Although, paragraph 5 was ultimately admitted at the conclusion of the GMC's case, XXX, Dr Patel continued to maintain her account as to the facts, XXX.

2) What if anything, was the doctor positively denying. There is a difference between denying 'primary facts' – what happened and what the doctor did or did not do – and denying 'secondary facts' – the evaluation of the primary facts through the lens of what the doctor knew or thought and the choices available to them. Resistance to the objectively verifiable is potentially more problematic behaviour (and more relevant to sanction) than insistence on an honest subjective perspective. This is not of course an exclusive binary classification: what a doctor thinks or knows will often have to be deduced evidentially from objective circumstances. A secondary fact such as dishonesty may be inferred in some defended cases from an overwhelming accumulation of primary facts. If a doctor denies their alleged state of mind with a defence at the unreal, unreasonable or 'frankly ludicrous' end of the spectrum, that may be more fairly relevant to sanction than one where the only thing being denied is that dishonesty rather than honest mistake gives the better account of things.

The Tribunal determined that in relation to paragraphs 6 and paragraphs 10 to 12, Dr Patel's defence involved a denial of objectively verifiable primary facts; that she created forged letters, that she caused those letters to be entered into her XXX record and a denial that she had said what Person C had reported her to have said.

3) Whether there is evidence of lack of insight other than the rejected defence. Before a rejected defence is held to be relevant evidence of 'lack of insight', it is necessary to consider what other evidence of insight or lack of insight is present. There are cases, including some of the sexual impropriety cases, where being 'in denial' up to and including sanction proceedings is a richly evidenced course of conduct, in which a range of supportive and restrictive interventions have demonstrably failed to bring a doctor to a proper, fair and reasonable acknowledgment of the reality of their established problems and failings. At the other end of the spectrum, there are cases in which the only evidence of failure of insight seems to be robust defence at the fact-finding stage. Damascene conversions aside, a rejected defence which on a fair analysis adds to an evidenced history of faulty understanding is more likely to be relevant fairly to sanction than one said to constitute such faulty understanding in and of itself.

The Tribunal accepted the submission of Ms Kitzing on behalf of the GMC that there was a 'richly evidenced course of conduct' in that Dr Patel had over the course of approximately 13 years maintained a narrative XXX. During this period Dr Patel received support and assistance

from a variety of sources; her Deanery, the XXX Practice, including Person C, XXX, and the Royal College of Obstetricians and Gynaecologists. XXX

4) The nature and quality of the rejected defence. 'Not telling the truth to the Tribunal', when not freshly charged in separate proceedings as akin to perjury, has to amount to something more than a failure to admit to an allegation (especially a secondary allegation of dishonesty) or a putting to proof, before it can properly count against a doctor. It is likely to have to amount to more than offering an 'honest' alternative explanation of events alleged to be explicable as dishonesty, or it is hard to see how a dishonesty charge is to be effectively defended. It is going to require some thought to be given to the nature of the rejected defence. Was it a blatant and manufactured lie, a genuine act of dishonesty, deceit or misconduct in its own right? Did it wrongly implicate and blame others, or brand witnesses giving a different account as deluded or liars? Or was it just a failed attempt to tell the story in a better light than eventually proved warranted?

XXX. Her defence extended to explicitly and falsely implicating XXX Dr E in the creation of Letter One and, by necessary implication, Letters Two, Three and Four and could not be accurately characterised as '*a failed attempt to tell the story in a better light than eventually proved warranted*'.

200. In these circumstances the Tribunal considered that it was relevant and fair to have regard to the manner in which Dr Patel has sought to defend the allegations as relevant to the issue of insight. The Tribunal considered that even if Dr Patel's continued adherence to a false narrative could be explained by XXX, as submitted by Mr Ainsworth, it would not alter the fact that over the course of 13 years she has not developed, and does not currently have, any meaningful insight.

Mitigating Factors

201. The Tribunal then considered the mitigating factors in this case:

- i) XXX;
- ii) There had been no further unrelated instances of dishonesty since 2015. XXX;
- iii) Clinically Dr Patel is not only a good GP but an excellent one and she is highly regarded by colleagues and patients alike;
- iv) The stressors in Dr Patel's life at the time of the events, XXX at least contributed to Dr Patel choosing to act in the way she did and that but for the stressors she would probably not have acted in the way she did.

202. The Tribunal then went on to consider each sanction starting with the least restrictive.

No action

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

204. The Tribunal determined there were no exceptional circumstances in this case and determined that it would be neither sufficient, proportionate, nor in the public interest to conclude this case by taking no action.

Conditions

205. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Patel's registration. It took account of paragraphs 81, 82 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.

85 Conditions should be appropriate, proportionate, workable and measurable

206. The Tribunal took into account that neither party had suggested imposing a period of conditional registration would be appropriate and, in any event, it concluded that no measurable or workable conditions could be formulated in this case. Further, the Tribunal determined

that a period of conditional registration would be insufficient to mark the seriousness of the misconduct and satisfy the statutory overarching objective, public interest or uphold/maintain public confidence in the profession.

Suspension

207. The Tribunal took into account paragraphs 91, 92, 93 and 97 of the SG when considering whether a period of suspension would be the appropriate and proportionate sanction in this case:

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 breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.

b to d (not relevant)

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.

208. The Tribunal agreed that if it were to impose a sanction of suspension, it would send a signal to Dr Patel, the profession and the public as to the unacceptability of Dr Patel's conduct, but the question for the Tribunal was; would that be sufficient to achieve that purpose and satisfy the overarching objective having regard to the level of seriousness and dishonesty found in this case, or did the dishonest behaviour cross the threshold of being so serious as being fundamentally incompatible with continued registration as a doctor?

209. The Tribunal had further regard to factors as set out in guidance as to when a period of suspension would be the appropriate response. The Tribunal agreed that acknowledgement of fault had been limited to the admission made to paragraph 5 of the Allegation, in relation to Letter One. However, for the reasons set out in its impairment determination, the Tribunal was unable in the absence of any significant insight, to be satisfied that the behaviour was unlikely to be repeated and how it could be mitigated in any way.

210. The Tribunal considered Mr Ainsworth's submission's on insight and remediation carefully XXX the Tribunal did not discount the possibility that, in the course of time, Dr Patel may develop and demonstrate sufficient insight into her misconduct. However, the Tribunal considered that, in the absence of evidence to the contrary, if it were to occur it would be likely to be a long process. XXX

211. With regard to remediation, the Tribunal had regard to the fact that despite this lengthy period there was similarly no evidence of any meaningful remediation. The Tribunal took into consideration that dishonesty in any case is difficult to remediate and in the particularly serious circumstances of this case it would be very difficult. The evidence of remediation before the Tribunal was limited to Dr Patel's attendance on a Probity and Ethics CPD course in 2021, but the Tribunal could not help but note that despite attending this course Dr Patel continued to maintain a dishonest position in relation to her evidence to the Tribunal. The Tribunal considered carefully Dr Patel's reflections submitted at this stage of the hearing. It noted that the focus of these appeared to be how Dr Patel's conduct had affected her but demonstrated little or no consideration of how serious the dishonesty found proved and/or admitted, was, or XXX and lying to her employer and others, XXX, would be. The Tribunal was further struck by the limited reflection by Dr Patel's on the effect of her actions upon the reputation of the medical profession.

212. The Tribunal took into account the nature of Dr Patel's conduct and that it had taken place in a professional context. There had been serious breaches of the principles set out in GMP as well as breaches of fundamental tenets of the medical profession; honesty and integrity. The Tribunal rejected Mr Ainsworth's submission that the dishonesty had not been "calculated" and had regard to the number of actions Dr Patel had undertaken and maintained, XXX.

213. The Tribunal also took into account that there had been some benefit for Dr Patel as a result of her dishonesty XXX. The GMC had closed its 2015 investigation following the receipt of Letter One, and there had been various concessions XXX.

214. The Tribunal agreed there had been no other dishonest conduct other than that which had risen in relation to these allegations and the position Dr Patel had adopted during the hearing itself.

215. The Tribunal considered whether Dr Patel's conduct was fundamentally incompatible with continued registration. In making its determination on this issue, it gave weight to the aggravating factors it had identified. Further, the Tribunal concluded Dr Patel's clinical competence, as evidenced by the number of positive testimonials, could not mitigate the serious nature of the misconduct found proved. The Tribunal was satisfied that Dr Patel's dishonesty and her failure to appreciate the wider impact of her actions were individually and collectively capable of being fundamentally incompatible with continued registration.

216. In light of these factors, the Tribunal determined that a period of suspension would be insufficient to mark the seriousness of Dr Patel's misconduct or to uphold the overarching objective.

Erasure

217. The Tribunal then went on to consider erasure. In its deliberations it took into account paragraphs 108 and 109 of the SG:

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 fundamentally incompatible with being a doctor.

b A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.

c Doing serious harm to others (patients or otherwise), either deliberately or through incompetence and particularly where there is a continuing risk to patients

d Abuse of position/trust (see Good medical practice, paragraph 65: ‘You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession’).

...

h Dishonesty, especially where persistent and/or covered up.

...

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

218. The Tribunal acknowledged there had been no harm, or risk of harm, to patients in the circumstances of this case. However, for the reasons previously given, the Tribunal considered that a doctor who is capable of acting in the dishonest manner proved in this case, in a professional context and who showed no meaningful insight into or remediation of their conduct, could not be regarded as a safe medical practitioner. The Tribunal could not be satisfied Dr Patel would not present a risk to patient safety in the future until such time as she had developed sufficient insight and remediated her actions.

219. The Tribunal therefore found there was a risk of doing harm to others. This included Dr E, Person C and Person B, whose name had been used on several forged XXX letters.

220. The Tribunal reminded itself of the evidence of Person C that initially he had no reason to doubt the veracity of what he as being told by Dr Patel. The Tribunal considered this to be an entirely natural reaction as he would have automatically assumed that a fellow medical practitioner would be honest and trustworthy XXX The Tribunal was, XXX, satisfied that the dishonest conduct involved an abuse of her position and abuse of the trust placed in her by her employers at the Practice and the Hospital.

221. The Tribunal further took into account paragraphs 120, 124, 125 and 128 of the SG which relate to dishonesty:

120 Good medical practice states that registered doctors must be honest and trustworthy, and must make sure that their conduct justifies their patients’ trust in them and the public’s trust in the profession.

124 Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor’s clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.

125 Examples of dishonesty in professional practice could include:

a defrauding an employer

b falsifying or improperly amending patient records

c ...

d ...

e failing to take reasonable steps to make sure that statements made in formal documents are accurate.

128 Dishonesty, if persistent and/or covered up, is likely to result in erasure.

222. The Tribunal found the dishonesty to be persistent. For this and other reasons given in this determination, the Tribunal determined that the dishonest conduct was at and at the higher end of the scale of dishonesty. Dr Patel's admission to paragraph 5 of the Allegation amounted to, the Tribunal found, an attempt by Dr Patel to close a GMC investigation down. Dr Patel had created Letters Two, Three and Four and inserted these into her XXX records in order, the Tribunal inferred, to add credence to the lies she was telling her employer XXX.

223. The Tribunal acknowledged the mitigation and that Dr Patel was in all other respects an excellent clinician. It also accepted that Dr Patel's judgement was to a degree impaired at the relevant times XXX.

224. The Tribunal considered that in relation to the stressors Dr Patel was suffering at the relevant time XXX she deserved sympathy and a degree of understanding. The Tribunal also accepted that this was relevant to the issue of culpability and the Tribunal accepted that Dr Patel's judgment was, at the relevant time, to a degree, impaired. However, what was equally plain, and had been throughout the hearing, that Dr Patel knew what she was doing, that it was seriously wrong and that she had the freedom of choice in relation to her actions. She was responsible for her actions and, over the course of a number of years, she repeatedly chose to act dishonestly towards fellow medical practitioners, her regulator and her family. XXX.

225. The Tribunal had to take into account that, sadly, there are cases where people find themselves compelled to make bad decisions and act dishonestly as a result of matters beyond their control. While such matters, depending on the circumstances, may amount to mitigation and reduce culpability, the dishonesty may still be so serious that the overarching objective, in particular, the public interest in maintaining confidence in the profession can only be achieved by an order of erasure. In such cases that is the course that must necessarily follow.

226. The Tribunal had in mind the observations of Sir Thomas Bingham in the case of *Bolton*, that upholding public confidence in the profession is more important than the interests of any individual member.

227. The Tribunal found there were no factors in this case to justify departing from the guidances as set out above and concluded that the only appropriate and proportionate sanction that would adequately reflect the seriousness of this misconduct and be sufficient to uphold the overarching objective to maintain public confidence in the profession and uphold proper professional standards, was one of erasure.

228. The Tribunal therefore directed that Dr Patel's name be erased from the medical register.

Determination on Immediate Order - 29/01/2024

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

Submissions

229. On behalf of the GMC, Ms Kitzing referred the Tribunal to paragraphs 172 onwards in the SG, which refer to immediate orders. Ms Kitzing reminded the Tribunal that it may impose an immediate order if it determines that it is necessary to protect members of the public, is in the public interest or in the best interests of the doctor.

230. Ms Kitzing submitted that taking into account the Tribunal's previous determinations and its finding relating to clinical care, it was the public interest aspect that led it to be necessary for there to be an immediate order of suspension. There had been very serious findings and the potential for there to be significant impact on public confidence in the profession should Dr Patel be permitted to practice in the interim period should appeal papers be lodged.

231. On behalf of Dr Patel, Mr Ainsworth submitted that Dr Patel possessed excellent clinical skills. There had been no interim order placed on Dr Patel's registration before the hearing commenced and she had remained in practice, unrestricted.

232. Mr Ainsworth submitted that Dr Patel was a single handed practitioner XXX. Mr Ainsworth submitted that if suspended as of today, Dr Patel would be unable to continue with these tasks before the practice closed.

233. Mr Ainsworth told the Tribunal that If Dr Patel was not subject to an immediate order, she could do what was needed to wind down the practice. There was no threat to patients or public confidence in the profession as shown in recent months where she had been

practising unrestricted. In this case as Dr Patel had to wind things down, it was appropriate and in the public interest that she be allowed to practice for the next few weeks.

The Tribunal's Determination

234. In reaching its decision, the Tribunal took into account submissions from both Counsel and its previous determinations. The Tribunal bore in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest or is in the best interests of the practitioner. It also considered the guidance given in paragraphs 172, 173, 174, 176, 177, and 178 of the SG relating to immediate orders:

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, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.

...

173 ... where immediate action must be taken to protect public confidence in the medical profession.

...

174 Doctors and their representatives sometimes argue that no immediate order should be made as the doctor needs time to make arrangements for the care of their patients before the substantive order for suspension or erasure takes effect.

176 In any event, the GMC also notifies the doctor's employers or, in the case of general practitioners, the relevant body, of the date of the hearing. They have a duty to make sure that appropriate arrangements are in place for the care of the doctor's patients should an immediate order be imposed.

177 ... Where the tribunal has directed suspension or erasure as the substantive outcome of the case, it may impose an immediate order to suspend registration.

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.

235. The Tribunal acknowledged that Dr Patel was a good clinician and that she had been practising without any restrictions on her registration before the commencement of this hearing. However, what had changed now was that the facts found proved were of an extremely serious nature and Dr Patel's fitness to practise had been found to be impaired. The Tribunal had found misconduct of a serious degree such that erasure was required to maintain public confidence in the profession and uphold standards for the medical profession.

236. The Tribunal acknowledged that Dr Patel would need to wind down her practice. However, it considered that she should have been aware no later than the time at which the impairment determination was handed down that it was likely that an immediate order would be considered either as a result of the Tribunal imposing a suspension order or an erasure order. Accordingly, contingency planning should have started then.

237. Further, although the Tribunal had not imposed a sanction of erasure on the grounds of public protection, it recognised in its impairment and sanction determinations that there is a risk of repetition at the present time and there is, accordingly, a risk to patients in the circumstances of this case. The Tribunal was all the more concerned knowing that Dr Patel is a sole practitioner running her own GP practice and in which, by definition, there would be no oversight or supervision.

238. Therefore, the Tribunal determined that it was proportionate and otherwise in the public interest to impose an immediate order of suspension on Dr Patel's registration.

239. The Tribunal recognised that, to Dr Patel's credit, she wished to retain her registration status in order to be able to oversee the orderly winding down of her practice and to minimise disruption to her patients. However, the Tribunal concluded that public protection and the maintenance of public confidence in the profession required an imposition of an immediate order.

240. This means that Dr Patel's registration will be suspended from today. The substantive direction, 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 an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

241. That concludes this case

SCHEDULE 1

XXX:

XXX

XXX