

PUBLIC RECORD

Dates: 15/08/2022 - 18/08/2022

Medical Practitioner's name: Dr Anusha DE ALMEIDA
GMC reference number: 6061740
Primary medical qualification: Vrach 1999 I.M Sechenov Moscow Medical Academy

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

Summary of outcome

Suspension, 4 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr Malcolm Dodds
Lay Tribunal Member:	Mr Stephen Downing
Medical Tribunal Member:	Dr Nagarajah Theva
Tribunal Clerk:	Miss Evelyn Kramer

Attendance and Representation:

Medical Practitioner:	Present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Ms Colette Renton, 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 and Impairment - 17/08/2022

1. During the hearing, the Tribunal went into private session to hear evidence relating to XXX. It also heard some evidence relating to Mr A in private to reduce any potential risk of him being identified.
2. This determination will be handed down in private. A redacted version will be published at the close of the hearing.

Background

3. Dr De Almeida qualified in 1999 from Moscow State Medical Academy I.M. Sechenov, Russia. She completed her training in psychiatry at the University of Cardiff in 2017. At the time of the events, Dr De Almeida was a specialty doctor for the Children and Adolescent Mental Health Services (CAMHS).
4. The allegation that had led to Dr De Almeida's hearing can be summarised as follows: it is alleged that on 10 February 2020 at Mid Wales (Merthyr Tydfil) Magistrates' Court, Dr De Almeida was convicted of committing fraud contrary to sections 1 and 4 of the Fraud Act 2006. It is also alleged that Dr De Almeida was sentenced to six weeks imprisonment, suspended for 18 months and required to carry out 80 hours of unpaid work within twelve months.
5. The GMC was notified by the police following Dr De Almeida being formally charged with fraud in late 2019.

The Outcome of Applications Made during the Facts Stage

6. The Tribunal granted the GMC's application to adduce further evidence under Rule 34(1) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'). The GMC submitted that the prosecution case summary prepared by the Counter

Fraud Team provided relevant background to Dr De Almeida's alleged conviction. Dr De Almeida submitted that aside from two factual discrepancies in the document, she was content for the document to be admitted into evidence. The Legally Qualified Chair (LQC) gave legal advice and explained to Dr De Almeida that she could raise any discrepancies in the document and that her account of events would be preferred.

7. The Tribunal determined that that prosecution case summary was likely to provide relevant additional details as to the background and investigation that led to Dr De Almeida's alleged conviction. It determined that any unfairness in adducing the document could be protected against by accepting Dr De Almeida's account of any disputed facts in the case summary. Additionally, if Dr De Almeida was to require any further time to prepare her case, specifically in relation to the case summary, the Tribunal would permit the time she needed. In all the circumstances, the Tribunal determined that it was fair and relevant to admit the prosecution case summary.

The Allegation and the Doctor's Response

8. The Allegation made against Dr De Almeida is as follows:

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

1. On 10 February 2020 at Mid Wales (Merthyr Tydfil) Magistrates' Court you were:
 - a. convicted of committing fraud contrary to sections 1 and 4 of the Fraud Act 2006;
Admitted and found proved
 - b. sentenced to:
 - i. 6 weeks imprisonment suspended for 18 months;
Admitted and found proved
 - ii. carry out unpaid work for 80 hours within twelve months.
Admitted and found proved

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

To be determined

The Admitted Facts

9. At the outset of these proceedings Dr De Almeida admitted the facts 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 the facts of the Allegation as admitted and found proved in full.

Further background

10. Between May 2015 and December 2017, Dr De Almeida wrote eight prescriptions using false patient names on all occasions, and false doctors' names and signatures on seven occasions for the prescriber. For the prescription dated 5 December 2017, Dr De Almeida used her own name for the prescriber. She had the prescriptions dispensed, visiting a local pharmacy and then provided them to Mr A, a person with whom she had a close personal relationship who was unwell following complications from surgery and had, according to Dr De Almeida, disengaged from his General Practitioner (GP). All prescriptions used adult dates of birth but were written on prescription pads she had access to through the CAMHS service she worked for. All used addresses were connected to or known to Dr De Almeida.

11. The prescriptions were for a number of medications to treat a variety of common conditions and included a number of courses of antibiotics. No controlled drugs were prescribed.

12. Concerns about the prescriptions first came to light when a pharmacist noticed that the prescription dated 5 December 2017 was being issued to an adult despite it bearing the details of a CAMHS service. The pharmacist considered this to be unusual and took steps to verify it.

13. As a result, Dr De Almeida was asked to attend an interview under caution on 2 May 2018. She had a solicitor with her. She was shown all eight prescriptions. In respect of the prescription dated 5 December 2017, issued to a 'Tracey James', Dr De Almeida said that the patient was known to her and was unwell, so Dr De Almeida had written her a CAMHS prescription. Dr De Almeida denied knowledge of the other seven prescriptions.

14. Having denied any knowledge of the other seven prescriptions, the Counter Fraud Team investigated further and contacted all the other prescribing doctors who had worked at

the CAMHS service over the period that the alleged fraud had taken place. All those contacted confirmed they had not written the prescriptions.

15. Handwriting experts were instructed by the Counter Fraud Team to consider the seven prescriptions. They concluded that there was strong evidence to suggest that Dr De Almeida had written all seven prescriptions but was inconclusive as to whether she had written the doctor's name, date and signature.

16. Following the handwriting analysis, Dr De Almeida was interviewed under caution again on 21 December 2018. For her second interview, Dr De Almeida did not have a solicitor. During that second interview, Dr De Almeida continued to deny that she had written the seven prescriptions in question.

17. Following the interview, further enquiries were made to establish whether the names used on all eight prescriptions were genuine patients. It had already been established that none of the names were registered as patients in Wales or England, further enquiries confirmed that they were not registered in Scotland or Northern Ireland either. The Counter Fraud Team contacted the Department of Work and Pensions (DWP) who also confirmed they had no record of the patient names on the eight prescriptions. It was concluded that the patients did not reside in the UK. The value of medications prescribed was £529.01, and the value of the medication not prescribed was £142.52, a combined total of £671.53.

18. During the course of the Counter Fraud investigation, Dr De Almeida was not suspended from work but was subject to restrictions in that she was not allowed to prescribe without supervision.

19. Dr De Almeida was subsequently formally charged and attended Merthyr Tydfil Magistrates Court on 10 February 2020 with Mr A. At court, it was explained by Dr De Almeida's legal representative that all eight prescriptions had been prescribed for Mr A, as Dr De Almeida considered that he was not getting the care and medication he needed from his GP. Dr De Almeida pleaded guilty to the offence of Fraud by Abuse of Position on 10 February 2020 in respect of all eight prescriptions.

20. According to the prosecution case summary:

'The Court considered the breach of trust and the abuse of her position to be a very serious matter and indicated that a custodial sentence could be warranted. However

the Court took into account the fact that she did not personally gain from her actions and although extremely misguided attempted to help the elderly individual concerned. Consequently she was given a 6 week prison sentence suspended for 18 months and was ordered to do 80 hours unpaid work. She also had to pay £529.01 in compensation to the Cwm Taf Morgannwg Health Board, a £115 victim surcharge, and £85 prosecution costs.'

21. The certificate of conviction states:

'Between 19/05/2015 and 13/07/2017 at CARDIFF committed fraud in that, while occupying a position, namely Speciality Doctor, in which you were expected to safeguard, or not to act against, the financial interests of Cwm Taf Morgannwg University Health Board, you dishonestly abused that position intending thereby to make a gain, namely the creation of eight prescriptions containing false patient details., for yourself. Contrary to sections 1 and 4 of the Fraud Act 2006.'

'Committed to prison for 6 weeks suspended for 18 months. Reason: Offence so serious. Reason for custody: serious offence which involves dishonesty and an abuse of position. Reasons for suspending - Interest of justice. The defendant must comply with the following requirements within the supervision period of 18 months: Unpaid Work Requirement: Carry out unpaid work for 80 hours within the next twelve months. This work will be supervised by the responsible officer. In the event of activation of sentence: 0 bail remand days to count. Overall length of sentence 6 Weeks.'

22. Dr De Almeida was also required to pay £729.01 comprising costs, compensation and a victim surcharge.

23. Dr De Almeida entered a basis for her guilty plea and explained that she had written 'appropriate prescriptions' for her friend of ten years, Mr A, who had developed a number of medical conditions following his treatment for cancer. She said that he had become 'very exhausted going to his GP appointments and hospital appointments and I was concerned that he was giving up on life. There were times that he was so unwell he did not realise the serious position he was in and I believed, professionally, I could not ignore his plight'.

24. Dr De Almeida stated that all of the medication she prescribed was basic treatment for common medical conditions. 'None have a secondary gain such as illegal highs or are addictive in any way. They cannot be used for any other purpose other than for their primary

treatment'. She stated that she received no financial benefit as a result of her actions and *'believed that I was acting in the best interests'* of her friend.

Determination on Impairment

25. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved, Dr De Almeida's fitness to practise is impaired by reason of a conviction for a criminal offence.

The Outcome of Applications Made during the Impairment Stage

26. Whilst the Tribunal was deliberating on impairment, Dr De Almeida raised with MPTS staff by email whether she could provide further evidence to the Tribunal. Dr De Almeida's correspondence was sent to the GMC for consideration and comment.

27. Once both parties had provided their comments, the Tribunal was notified that Dr De Almeida wanted to apply for the Tribunal to have sight of the Rule 7 response from the GMC that XXX. The Tribunal was informed that the GMC opposed this application.

28. The Tribunal did not have sight of the document. It was satisfied that when the matter of previous allegations had been raised by Dr De Almeida during her submissions, and after hearing from both parties the Tribunal determined that previous allegations would not be material to its consideration of impairment by reason by conviction. It therefore considered that there was no need to re-open the matter and determined not to receive the Rule 7 response into evidence.

The Evidence

29. No witness evidence was called on behalf of the GMC. It relied on the documentary evidence provided to the Tribunal.

30. Dr De Almeida provided her own witness statement, dated 22 April 2022. She also gave oral evidence at the hearing.

31. In her oral evidence, Dr De Almeida explained that Mr A was *'everything'* to her and that his ill-health, following complications from surgery, had been her primary motivation to fraudulently write eight prescriptions. She said that she took the decision to write the

prescriptions when Mr A had disengaged from his GP and was refusing to re-engage despite her requests for him to do so. Dr De Almeida explained that she would take the prescriptions to a local pharmacy herself and have them dispensed. She conceded in cross-examination that in doing so, she was knowingly deceiving the pharmacist.

32. Dr De Almeida said that on reflection, she now knows to avoid prescribing to anyone she has a close personal relationship to. She said that while the medication she prescribed was outside what she would usually prescribe as a psychiatrist working in a CAMHS service, she was still expected to treat a variety of medical conditions in her work. Dr De Almeida told the Tribunal that while she did not have sight of Mr A's medical records, it was Dr De Almeida who primarily explained Mr A's history to clinicians. She accepted that she did not have access to Mr A's treating clinicians' rationale for their decision-making in his medical records but said she would usually hear the rationale as it was explained to Mr A while she attended his appointments with him. She said that had she not understood the clinical rationale set out at an appointment, she would have asked for clarification.

33. Dr De Almeida accepted that all eight of the prescriptions she wrote were issued when Mr A was not engaging with his GP. Dr De Almeida argued that she was therefore the only person with medical training who was assessing what medication Mr A required. She did not make these assessments with input from Mr A's GP or let the GP know what she had prescribed.

34. When asked about why Dr De Almeida had used false patient names instead of Mr A's name, when she knew all of the prescriptions were for him, Dr De Almeida said that she had not wanted to involve him and said that subconsciously, she knew she was doing something that was not right. She explained that, on reflection, her judgement was clouded by her emotional connection to Mr A. Dr De Almeida was asked about when she had not pleaded guilty until the day of her trial. She said that she had needed the duration of the investigation to reflect on her actions and only with '*maturity*' had acknowledged her dishonest conduct. Dr De Almeida also said that at her first interview, a member of the Counter Fraud Team had told her that her case would not go to court. She said, at the time, she knew this was unlikely but took the interviewer at their word. Dr De Almeida said she felt she had been misled by the Counter Fraud Team about how the case was likely to progress.

35. Dr De Almeida explained that her conviction had been a '*lesson for a lifetime*' and that she would not repeat her fraudulent prescribing again. Dr De Almeida explained the steps she has taken to avoid any risk of repetition. She explained that she has engaged with life

coaching, completed a course XXX and is now *'extremely cautious'* in her day-to-day life, compares her actions to others, always being mindful and correcting herself. Dr De Almeida explained that the support she has accessed has been to support her in her day-to-day life XXX.

36. In her professional life, Dr De Almeida said her conviction is a *'benchmark'*. She said that she has reflected on matters more and is *'overly cautious'*, speaking with colleagues or seniors so she knows other people's views and is not guided solely by her own view before acting out of the *'norm'*. Dr De Almeida explained that she had been unable to complete any courses relating specifically to probity and prescribing as she could not access them as she was not a member of the relevant Medical Defence Organisation. XXX. Dr De Almeida told the Tribunal that she would not repeat her dishonest or fraudulent conduct.

Documentary Evidence

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

- Certificate of Conviction, dated 10 February 2020;
- Document setting out the basis for Dr De Almeida's guilty plea, dated 10 February 2020;
- Prosecution Case Summary prepared by the Counter Fraud Team, undated;
- Eight prescriptions found to be fraudulent, various dates between 19 May 2015 and 5 December 2017;
- A letter from Dr De Almeida's friend, Mr A, for whom she says she wrote the prescriptions, undated;
- Confirmation of completion of order, dated 19 July 2022;
- Feedback from patients and colleagues of Dr De Almeida, dated 5 September 2021;
- Requests from Dr De Almeida's previous legal representatives for testimonials, enclosing the draft Allegation, dated 21 June 2022;
- Testimonials in support of Dr De Almeida from her current and former colleagues, various dates.

Submissions

On behalf of the GMC

38. On behalf of the GMC, Ms Renton submitted that Dr De Almeida's conviction was for '*multi-faceted dishonesty*' and referred the Tribunal to the Court's decision in February 2020 that Dr De Almeida's offence was so serious as to warrant a custodial sentence due to her dishonesty and abuse of position. The Court had determined to suspend Dr De Almeida's sentence in the interests of justice. While at the core of Dr De Almeida's actions was an attempt to help someone else, Ms Renton submitted that Dr De Almeida's actions were serious, she had fraudulently written eight prescriptions and knowingly deceived the pharmacists she presented each prescription to. She stated that Dr De Almeida's fraud had only come to light due to the diligence of one pharmacist.

39. Ms Renton referred the Tribunal to the relevant authorities on dishonesty and impairment, including the test as set out by Dame Janet Smith in the Fifth Shipman Report as adopted by the High Court in *CHRE v NMC and Grant* [2011] EWHC 927 (Admin) ('*Grant*'):

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.

40. Ms Renton submitted that limbs *b*, *c* and *d* of *Grant* were engaged in this case. She submitted that Dr De Almeida's conduct fell significantly below the standards expected of a registered medical practitioner. Ms Renton referred the Tribunal to paragraphs 16g, 65, 66 and 67 of Good Medical Practice (2013) (GMP):

16 *In providing clinical care you must:*

...

g *wherever possible, avoid providing medical care to yourself or anyone with whom you have a close personal relationship.*

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

66 You must always be honest about your experience, qualifications and current role.

67 You must act with honesty and integrity when designing, organising or carrying out research, and follow national research governance guidelines and our guidance.

41. Ms Renton submitted that Dr De Almeida had failed to uphold the reputation and standards of the medical profession and had brought the profession into disrepute. She submitted that Dr De Almeida's explanation for improperly assessing and prescribing for Mr A, namely that he was difficult and refusing to engage with his GP, did not excuse the breach of duties and responsibilities of a doctor. She submitted that Dr De Almeida's ability to write prescriptions is a privilege and that her fraudulent conduct has abused that privilege.

42. In respect of Dr De Almeida's insight, remorse and remediation, Ms Renton acknowledged that Dr De Almeida has engaged in these proceedings. However, Dr De Almeida did not accept responsibility or explain her actions until 10 February 2020 at the Magistrates' Court, despite first being interviewed under caution in May 2018 and interviewed again in December 2018. Ms Renton submitted that the prosecution case summary gave an indication of the extent of the investigation undertaken by the Counter Fraud Team. She submitted it was a cause for concern that there was a serious delay in the time it took for Dr De Almeida to accept responsibility and gain insight into her criminal behaviour. Ms Renton submitted that the insight Dr De Almeida has gained has taken a long time. She reminded the Tribunal of Dr De Almeida's own evidence that she needed time to reflect and mature sufficiently to accept responsibility for her actions.

43. Ms Renton submitted that the testimonials provided on behalf of Dr De Almeida could only be of limited use as comments that Dr De Almeida's actions were '*out of character*' does not assist with what was in her mind at the time of her fraudulent actions. Ms Renton acknowledged that Dr De Almeida had taken some steps to mitigate the risk of repeating her behaviour. However, she submitted that the remediation Dr De Almeida had undertaken was related to her general work-life balance and practice management. It was not specific either to the issues arising from Dr De Almeida's conviction or to the elements identified by Dr De Almeida herself as contributing to her behaviour, including someone close to her being at risk of harm, and matters that clouded her judgement, XXX.

44. Ms Renton submitted that not to find Dr De Almeida impaired by reason of her conviction would undermine the overarching objective, particularly in maintaining public confidence and maintaining proper professional standards. Ms Renton invited the Tribunal, in all the circumstances, to conclude that Dr De Almeida's fitness to practise is impaired.

Dr De Almeida

45. Dr De Almeida stated the nature of her conviction and repeated her sincere apology for her actions as she had first set out in her witness statement. She said she accepted that her actions in writing fraudulent prescriptions and in pleading guilty brought the medical profession into disrepute. She submitted that her delay in accepting her wrongdoing was in part XXX and finding the investigation process '*very frightening*'. Dr De Almeida also referred to English not being her first language as a factor in her not immediately taking responsibility for her fraudulent actions. Dr De Almeida reminded the Tribunal that she did plead guilty at Magistrates' Court and has reflected on her behaviour and made changes in her life since. She also accepted that her actions were serious enough to warrant a custodial sentence but reminded the Tribunal of the Court's decision that in all the circumstances, it was in the interests of justice to suspend her sentence.

46. Dr De Almeida explained that she wrote the prescriptions with Mr A's best interests in mind. She said she did so only because he was '*dear to her*', was seriously ill and was struggling to cope. She said there were periods where Mr A neglected himself and it was the concern for his wellbeing that led her to write the prescriptions. Dr De Almeida submitted that in the course of her clinical practice, she is responsible for managing the mental and physical health of her patients. She submitted that the medications she prescribed were non-addictive, standard medications. Dr De Almeida submitted that she gained nothing personally or financially from writing the prescriptions.

47. Dr De Almeida accepted that at the time of her conviction, her fitness to practise was impaired by reason of her conviction. She submitted that this was no longer the case. Dr De Almeida submitted that her circumstances are now very different. She has developed insight into her behaviour and understands why it was wrong. She has reflected on her conviction and behaviour, as set out in her witness statement, she demonstrated this by explaining her state of mind and the '*journey*' she has been on since her conviction. Dr De Almeida submitted that the contention of the GMC that she had breached GMP by treating a person

with whom she had a close personal relationship should not be considered since it was not part of the conviction that formed the Allegation.

48. Dr De Almeida submitted that this was her only conviction, that her actions had not been repeated and that she had no previous fitness to practise history. She said that there was no risk that she would repeat her fraudulent behaviour. She submitted that the issue for the Tribunal to determine was whether her fitness to practise was impaired today following her conviction on 10 February 2020. Dr De Almeida reminded the Tribunal that she had taken responsibility for her actions, completed her required 80 hours of unpaid work and had not reoffended. She submitted that she has reflected on the circumstances of her behaviour between 2015 and 2017 and made changes to ensure such behaviour is not repeated. Dr De Almeida submitted that there was no prospect of her writing false prescriptions again in any circumstances. She submitted that in all the circumstances, a finding of impairment was not required to uphold the overarching objective.

The Relevant Legal Principles

49. The Tribunal took account of all the evidence and submissions. The Tribunal reminded itself that at this stage in the proceedings there is no burden or standard of proof and the decision on impairment is a matter for the Tribunal. The Tribunal reminded itself that it must apply the overriding objective set out in s1(1A) Medical Act 1983 which is the protection of the public. The pursuit the over-arching objective involves the pursuit of the following objectives (s1(1B)) –

- (a) to protect, promote and maintain the health, safety and well-being of the public,
- (b) to promote and maintain public confidence in the medical profession, and
- (c) to promote and maintain proper professional standards and conduct for members of that profession.

50. In this case Dr De Almeida admitted serious misconduct by virtue of her conviction and sentence for fraud.

51. In relation to impairment the Tribunal reminded itself that it has no statutory definition. As stated in *Cheatle v GMC* [2009] EWHC 645 (Admin) despite a doctor having been found to be guilty of misconduct the tribunal may decide that the doctor's fitness to practice is not impaired. The Tribunal must determine whether the doctor's fitness to practice is impaired as of today taking into account the findings of the tribunal and any relevant factors since. The Tribunal was mindful of the test set out in *Grant* (set out above).

52. In considering ‘impairment’ the Tribunal should ask whether what the doctor has done represents a serious departure from GMP. GMP states that a doctor must be honest and open and act with integrity and never abuse the public’s trust in the profession. Doctors must be honest and trustworthy, and act with integrity and within the law. The doctor must wherever possible, avoid providing medical care to herself or anyone with whom she has a close personal relationship. The doctor must make sure that her conduct justifies her patients’ trust in her and the public’s trust in the profession. The doctor must be honest and trustworthy in all her communication with patients and colleagues. The doctor must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. The doctor must make sure that any documents she writes or signs are not false or misleading. The doctor must not allow any interests she has to affect the way she prescribes for, treat, refer or commission services for patients. If the doctor is faced with a conflict of interest, she must be open about the conflict, declaring her interest formally, and she should be prepared to exclude herself from decision making.

53. The Tribunal reminded itself that caselaw suggested that it would be very unusual where dishonesty is found proved not to find that fitness to practise is impaired e.g., *GMC v Nwachuku* [2017] EWHC 2085 (Admin). It was accepted that the degree of dishonesty in many of the reported cases was more serious than in Dr De Almeida’s case and that the cases did not exclude the option of finding that fitness to practice was not impaired. Each case depends on its particular circumstances.

54. Caselaw states that the Tribunal should (taking into account the evidence and submissions) ask:

1. Are the proven concerns about the doctor’s behaviour, skills, performance or health remediable?
2. Have the concerns about the doctor’s behaviour, skills, performance or health been remedied?
3. Are the concerns about the doctor’s behaviour, skills, or performance likely to be repeated?

55. In coming to a conclusion on impairment, the authorities make clear that the Tribunal must look forward. It must consider whether, in the light of what happened, and of evidence as to the doctor's conduct and ability demonstrated both before and after the misconduct, fitness to practise is impaired by the particular event.

56. Dr De Almeida could demonstrate she has insight if she has:
1. Demonstrated that she has reflected on her own performance or conduct and understand what went wrong,
 2. Accepted she should have behaved differently in the circumstances,
 3. Demonstrated that she understands the impact or potential impact of her conduct,
 4. Demonstrated empathy for any individual involved,
 5. Taken timely steps to remediate and identify how she will act differently in the future to avoid similar issues arising.
57. The Tribunal should consider testimonial evidence and attach such weight to them as the Tribunal considers appropriate. The Tribunal reminded itself that matters of pure mitigation should not be taken into consideration at the impairment stage.

The Tribunal's Determination on Impairment

58. The Tribunal was required to determine whether Dr De Almeida's fitness to practise is currently impaired by reason of her conviction for a criminal offence.
59. In relation to *Grant*, the Tribunal found that three of the four elements in the guidance applied in Dr De Almeida's case namely (b) Dr De Almeida had brought the medical profession into disrepute by virtue of her fraud conviction; (c) Dr De Almeida had committed a serious breach of one of the fundamental tenets of the medical profession for the same reason; and (d) she had acted dishonestly. The Tribunal also found that Dr De Almeida had as a result of her fraud conviction seriously departed from GMP as outlined above. This included breaching GMP by treating a close personal friend Mr A.
60. The Tribunal had regard to the nature of Dr De Almeida's conviction. The Tribunal had regard to the eight fraudulent prescriptions written by Dr De Almeida between May 2015 and December 2017. On each prescription, she falsified a patient's name and date of birth. She deliberately did not use Mr A's name or address, despite knowing that each prescription was for him. On seven of the eight prescriptions, she also falsified a doctor's name as the prescriber and their signature. She knowingly used addresses that existed as she knew they would be checked and could have exposed her fraud sooner if fictitious addresses had been used. Further, she collected each prescription herself and therefore deceived each pharmacist from whom she collected the prescription. The Tribunal considered that Dr De

Almeida had engaged in a deliberate and sustained fraud, in a well-intentioned, but unacceptable attempt to support Mr A, with whom she had a close personal relationship.

61. The Tribunal considered GMP and concluded that Dr De Almeida had materially departed from the standards expected in respect of both her dishonesty and in her decision to provide medical care for someone with whom she had a close personal relationship. GMP and supplementary guidance on prescribing makes it clear that it is inappropriate to prescribe to those with whom a doctor has a close personal relationship save for in exceptional circumstances, i.e. an emergency. The Tribunal considered that Dr De Almeida should have known that it was not appropriate for her to prescribe to Mr A. The Tribunal rejected her contention that this breach of GMP should be ignored since it was not part of the Allegation brought by the GMC. She accepted that she had treated a close personal friend, which the Tribunal found to be clear breach of GMP and this is relevant to the issue of impairment. Further, in her oral evidence she claimed to have known subconsciously, at the time, that her actions were not right. The Tribunal was concerned that Dr De Almeida had not sufficiently explored other options, instead deciding to prescribe to him herself without access to his medical records and without consulting his GP.

62. The Tribunal was mindful of the chronology of events, that Dr De Almeida denied any wrongdoing until 10 February 2020 when she appeared in Court. The Tribunal had regard to the scope of the investigation embarked on by the Counter Fraud Team given Dr De Almeida's decision to deny any knowledge or involvement. It considered Dr De Almeida's evidence and explanation, including that she felt she had been misled by the members of the Counter Fraud Team that had interviewed her that her case would not go to Court. The Tribunal was concerned that even if she had been misled, Dr De Almeida failed to recognise her wider duty as a doctor to be truthful, open and honest. The Tribunal was mindful that when she received the formal charge in the post in December 2019, she had sought out further legal advice and had pleaded guilty.

63. Dr De Almeida said XXX English not being her first language impacted on her and delayed her in accepting responsibility. The Tribunal was not persuaded by this. XXX they could not sufficiently explain or excuse her behaviour in knowingly writing eight fraudulent prescriptions over more than a two and half year period. The Tribunal did not accept that Dr De Almeida not speaking English as a first language had materially impacted on her decision to continue to deny wrongdoing until 10 February 2020. This was not raised in Dr De Almeida's evidence, she presented her case with a good command of English.

64. The Tribunal accepted that Dr De Almeida, once she had pleaded guilty, paid the compensation, costs and the surcharge and completed her 80 hours of unpaid work and the term of her suspended sentence has expired. It accepted that she had last fraudulently written a prescription on 5 December 2017. The Tribunal accepted that her motivation was to assist Mr A and she did not gain personally or financially from her actions. There was no evidence that she had repeated her behaviour since December 2017 nor did she have any previous fitness to practise history. The Tribunal accepted that Dr De Almeida's conviction related to discrete offences committed in the particular circumstances already outlined. Further, Dr De Almeida had at the time not been in her current role with CAMHS for long, was more isolated XXX.

65. The Tribunal considered Dr De Almeida's insight. It had regard to her witness statement, oral evidence and submissions. It accepted that she had reflected on why it was not appropriate to prescribe to those with whom she was in a close personal relationship, particularly as, on her own evidence, her emotions clouded her judgement. The Tribunal was mindful that Dr De Almeida had sought to explain her actions, in part, due to her being slow to react but noted that on eight occasions she had carefully formulated prescriptions with the intention to have medications issued on a fraudulent basis. XXX. The Tribunal reminded itself that Dr De Almeida had pleaded guilty and had made full admissions in these proceedings. Further, she had accepted that at the time of her conviction, her fitness to practise was impaired. Taken together, the Tribunal concluded that Dr De Almeida had developed some insight into what led her to write the fraudulent prescriptions that resulted in her conviction. However, it was unable to conclude that her insight into her conviction and what led to it was complete. The Tribunal was not satisfied as to the link between Dr De Almeida's conduct XXX, as contended by her. The Tribunal did not accept Dr De Almeida's reasons for her repeated denials of wrongdoing, and she lacked insight into why she persisted in her denials.

66. In respect of remediation, the Tribunal accepted that Dr De Almeida had made a number of changes following her conviction. Since her conviction, she has become more settled and established at work, XXX. She said that she is focused on exercising more and eating healthily. Dr De Almeida has engaged with life coaching, which appeared to be focussed on improving her work-life balance. XXX.

67. The Tribunal accepted that it is difficult to demonstrate remediation for dishonesty, and in this case the dishonesty that led to a conviction for fraud. The Tribunal was concerned that Dr De Almeida had not engaged in targeted remediation specific to the circumstances

that led to her conviction. It considered that she had identified some shortcomings in terms of her decision-making and her dishonesty but had not provided evidence on how she had sought to address them. Dr De Almeida told the Tribunal in oral evidence that she had looked into a course on probity and prescribing but did not meet the criteria to attend. The Tribunal considered that there had been sufficient time, even taking into account the difficulties caused by the Covid-19 pandemic, for Dr De Almeida to identify and complete relevant courses on probity, ethics and prescribing but she had not done so. The Tribunal considered that there was insufficient evidence to demonstrate that Dr De Almeida had made reasonable efforts to complete targeted remediation to support her case that she is not currently impaired. The Tribunal concluded that Dr De Almeida had taken some steps towards remediation but had not fully remediated for her dishonesty and conviction.

68. Taking Dr De Almeida's incomplete insight and remediation into account, the Tribunal could not be satisfied that there was no risk of repetition.

69. Finally, the Tribunal considered the overarching objective. It considered the serious nature of Dr De Almeida's conviction, the potential impact of her behaviour on public trust in the profession, her level of insight and remediation and the ongoing risk of repetition. The Tribunal concluded that not to find Dr De Almeida impaired by reason of her conviction for a criminal offence would undermine the overarching objective.

70. The Tribunal determined that a finding of impairment was required 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. It has therefore determined that Dr De Almeida's fitness to practise is impaired by reason of her conviction for a criminal offence.

Determination on Sanction - 18/08/2022

1. This determination will be handed down in private. A redacted version will be published at the close of the hearing.
2. Having determined that Dr De Almeida's fitness to practise is impaired by reason of her conviction for a criminal offence, 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

3. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction. No further evidence was adduced at this stage of proceedings.

Submissions

On behalf of the GMC

4. On behalf of the GMC, Ms Renton submitted that the appropriate sanction in this case was one of suspension. She submitted that the length of any suspension was a matter for the Tribunal. Ms Renton referred to the Tribunal's determination on Facts and Impairment and to the Sanctions Guidance (2020) ('the SG'). She then addressed the Tribunal on the sanctions available in ascending order of seriousness.

5. Regarding taking no action, Ms Renton submitted that one reason to impose a sanction is to maintain public confidence. She submitted that a member of the public would be surprised to know that no action was taken in the circumstances of this case. Ms Renton submitted that taking no action would be inappropriate given Dr De Almeida's conviction for fraud.

6. Ms Renton submitted that due to the nature of Dr De Almeida's conviction, conditions would not be appropriate. Ms Renton referred the Tribunal to the circumstances in which conditions would be appropriate and workable. She submitted that this case concerns dishonesty and that conditions could not '*supervise*' Dr De Almeida's mindset. XXX Ms Renton submitted that given the serious nature of the conviction, conditions would not adequately address the impairment found.

7. Ms Renton submitted that suspension was the appropriate and proportionate sanction in this case. She reminded the Tribunal of her previous submission that prescribing is a privilege afforded to doctors, a privilege that Dr De Almeida abused. Ms Renton reminded the Tribunal that evidence of clinical competence cannot mitigate serious or persistent dishonesty. She submitted that any conviction undermines public confidence in the profession, particularly when significant breaches of GMP are present. Ms Renton submitted

that in light of those breaches and the level of Dr De Almeida's dishonesty, suspension was the appropriate sanction.

8. Ms Renton identified aggravating and mitigating factors for the Tribunal to consider. In mitigation, Ms Renton submitted that Dr De Almeida had no previous fitness to practise history, made full admissions in these proceedings, and had not repeated her fraudulent behaviour in the time elapsed since December 2017. Nevertheless, she submitted that Dr De Almeida's conviction for was a serious fraud and an abuse of position which was aggravated further by the scale of her dishonesty.

9. Ms Renton submitted that the GMC's decision to make submissions on sanction for suspension, rather than erasure had been '*finely balanced*'. She reminded the Tribunal that erasure was not the '*automatic*' sanction for cases of dishonesty. Ultimately, she submitted that the GMC had concluded that Dr De Almeida's actions were not fundamentally incompatible with continued registration and therefore, that suspension was the appropriate and proportionate sanction. Ms Renton invited the Tribunal to impose an order of suspension and direct a review to allow Dr De Almeida's progress in terms of insight and remediation to be assessed.

Dr De Almeida

10. Dr De Almeida provided the Tribunal with further information about Mr A's circumstances and her personal circumstances between May 2015 and December 2017, including that she was studying for a Masters until August 2017.

11. Dr De Almeida acknowledged the Tribunal's findings. She accepted that her insight and remediation had been found to be incomplete but submitted that she would work to continue to make progress given the Tribunal's conclusion that her dishonesty was capable of remediation.

12. Dr De Almeida reminded the Tribunal that she has continued to work for CAMHS notwithstanding her prosecution and conviction. She submitted that there have been no concerns raised about her work.

13. Dr De Almeida referred the Tribunal to the testimonial evidence she had provided. She submitted that the testimonials show that she is a good doctor and held in high regard.

She reminded the Tribunal that her colleagues who provided testimonials considered her conviction for dishonesty to be out of character.

14. Dr De Almeida submitted that she has accepted responsibility for her actions. She also acknowledged that the Tribunal is of the view that she has more work to do on this. She submitted that she has apologised for her dishonesty and conviction, and for the disrepute she had brought to the profession.

15. Dr De Almeida submitted that her fraudulent behaviour took place '*some time ago*' and that there has been no recurrence. Further, she submitted that she had no previous findings of impairment against her.

16. Dr De Almeida submitted that she is a single person and practising as a doctor is very important to her. She submitted that she has dedicated her life to being a good doctor. She apologised that '*on this occasion*' her conduct fell short of high standards expected. She submitted that she had tried to explain the exceptional nature of the circumstances in which she found herself and could assure the Tribunal that such circumstances would not occur again. Dr De Almeida emphasised that her explanation of the exceptional circumstances surrounding the time of events was not an attempt by her to justify her wrongdoing, simply to provide the Tribunal with the relevant facts.

17. Dr De Almeida accepted that it would not be appropriate to take no action in this case. She invited the Tribunal to consider imposing conditions on her registration.

The Relevant Legal Principles

18. In considering the issue of sanction the Tribunal must apply the over-arching objective of protecting the public which involves the pursuit of the following objectives (s1(1B) —

- (a) to protect, promote and maintain the health, safety and well-being of the public,
- (b) to promote and maintain public confidence in the medical profession, and
- (c) to promote and maintain proper professional standards and conduct for members of that profession.

19. The Tribunal should look forward to the future to decide in all the circumstances of the particular case what sanction would be most appropriate and proportionate to meet the overriding objective (*Bawa-Garba v GMC* [2018] EWCA Civ 1879).

20. There is no burden or standard of proof. The Tribunal is making an evaluative decision based on all the factors

21. The Tribunal should start with the least restrictive sanction and impose the least restrictive sanction it considers necessary in the circumstances of the case and meets the overriding objective.

22. Sanctions are not meant to punish doctors but to uphold the overriding objective namely the protection of the public. The reputation of the profession as a whole is more important than the interests of any individual doctor.

23. The Tribunal should also have regard to the principle of proportionality, weighing the interests of the public against those of the doctor. There will usually be an impact on the doctor's career. Once the Tribunal has determined that a certain sanction is necessary to protect the public (and is therefore the minimum action required to do so), that sanction must be imposed, even where this may lead to difficulties for a doctor. This is necessary to fulfil the statutory overarching objective to protect the public.

24. The sanction should be consistent with the findings made. The Tribunal should have regard to the SG since this gives Tribunals an authoritative steer. When a Tribunal departs from the steer of the SG it should give clear and case-specific reasons for so doing (*Professional Standards Authority for Health and Social Care v General Optical Council (Rose)* [2021] EWHC 2888). The appropriate sanction will depend on the facts and circumstances of the case considered individually. A doctor can remedy the deficiencies that led to serious misconduct whereby the risk to patients in the future was low. The Tribunal can take account that a doctor is competent and useful who presents no material danger to the public and can provide considerable useful future service to society (*Bawa-Garba v GMC* [2018] EWCA Civ 1879).

25. The SG states that in relation to maintaining public confidence in the profession patients must be able to trust doctors with their lives and health, so doctors must make sure that their conduct justifies their patients' trust in them and the public's trust in the profession (see paragraph 65 GMP). Although the Tribunal should make sure the sanction it imposes is appropriate and proportionate, the reputation of the profession as a whole is more important than the interests of any individual doctor.

26. Mitigating factors that can be considered include (1) Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it. This could include the doctor admitting facts relating to the case, apologising, making efforts to prevent behaviour recurring; (2) a doctor's previous and current good character (3) Circumstances leading up to any incidents that raise concern; (4) Personal and professional matters, such as work-related stress; (5) lapse of time since incident occurred. In terms of insight expressing insight involves demonstrating reflection and remediation. A doctor is likely to have insight if they accept they should have behaved differently (showing empathy and understanding); take timely steps to remediate and apologise at an early stage before the hearing; and demonstrate the timely development of insight during the investigation and hearing.

27. In relation to the sanction of suspension this will be an appropriate response to conduct 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. 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.

28. 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 GMP, but where the doctor's conduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest; (b) No evidence of repetition of similar behaviour since incident; (c) The Tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.

29. Any of the following factors being present may indicate erasure is appropriate: (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) Abuse of position/trust ; (d) Dishonesty, especially where persistent and/or covered up.

30. The Tribunal should have regard to GMP.

31. Caselaw established that erasure for serious dishonesty is not automatic *Professional Standards Authority for Health and Social Care v Social Work England, Bennett* [2021] EWHC 3593 and *Towuaghantse v GMC* [2021] EWHC 681 (Admin).

The Tribunal's Determination on Sanction

Aggravating and Mitigating Factors

32. The Tribunal has already set out its decision on the facts and impairment which it took into account during its deliberations on sanction. Before considering what action, if any, to take in respect of Dr De Almeida's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

33. The Tribunal identified the following aggravating factors:

- There was a deliberate and sustained fraud from May 2015 to December 2017;
- The fraud involved Dr De Almeida falsifying patients' names and dates of birth and using real addresses connected with her to avoid the fraud being discovered;
- The fraud involved her falsifying doctor's names and signatures;
- The fraud involved her attending pharmacies and pretending to be the persons named in the prescriptions and deceiving the pharmacist;
- The frauds amounting to serious breaches of GMP and to a fundamental tenet of the medical profession in terms of honesty and integrity;
- Providing medication to a person with whom she had a close personal relationship contrary to GMP when there were alternative ways of responding to his situation;
- Denying the frauds when interviewed in May 2018 and again in December 2018 despite then being confronted with handwriting evidence and that her colleagues had been asked if they had issued the prescriptions.

34. Having identified aggravating factors in this case, the Tribunal identified the mitigating factors to be:

- Dr De Almeida committed the frauds in a misguided attempt to help Mr A who was in great distress and very important to her;
- There was no motive for financial gain;

- The medicines obtained were routine and non-addictive and the loss to the NHS was not great;
- The frauds took place when there were particular pressures on Dr De Almeida. These were the pressures she told the Tribunal about earlier and in addition that she was doing an MA and also supported Mr A XXX. She argued that at the current time none of those pressures are in place. She is settled and working well in her CAHMS team and feels more supported by her colleagues and seniors. She contends that these circumstances are unlikely to be repeated and have not been repeated;
- She pleaded guilty when she received the postal charge, took legal advice and appeared in Court in February 2020;
- XXX
- She has shown some insight into her wrongdoing. She apologised in her statement and in her oral evidence and acknowledged her misbehaviour and assured the Tribunal that it would never happen again;
- She has taken some steps to remediate via life coaching, XXXX, exercise and eating better food;
- There have been no incidents of similar conduct before or after the frauds – the last fraudulent prescription having been issued in December 2017 nearly 5 years ago;
- She has continued to work in her CAHMS Team and has positive testimonials from her colleagues and seniors who are aware of her conviction. The Tribunal was satisfied that she is an asset to her team, that CAHMS provides a particularly important service, that the pressures on CAHMS were considerable and there would be loss to the provision of that valuable service if Dr De Almeida was unable to practise.

35. The Tribunal was mindful that the SG advises that in relation to cases of dishonesty, though dishonesty may not result in direct harm to patients, if the dishonesty related to matters outside the doctor's clinical responsibility (e.g., providing false statements or fraudulent claims for monies) this 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. While Dr De Almeida's conduct was not on all fours with this advice nevertheless the Tribunal noted that the SG highlighted how serious cases of dishonesty are. This is emphasised by the advice in the SG that dishonesty, if persistent and/or covered up, is likely to result in erasure.

36. The Tribunal bore in mind the aggravating and mitigating factors throughout its deliberations on what the appropriate and proportionate sanction to impose would be, if any. The Tribunal considered each sanction in ascending order of severity, starting with the least restrictive.

No action

37. The Tribunal first considered whether to conclude the case by taking no action. It accepted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that there are no exceptional circumstances in this case and that, given the serious nature of Dr De Almeida's conviction, it would not be sufficient, proportionate, nor in the public interest to conclude this case by taking no action. The Tribunal agreed with the GMC that a reasonable member of the public would be surprised to learn that no action had been taken against a doctor in these circumstances.

Undertakings

38. There was no offer or agreement for undertakings so the Tribunal was not invited to consider them. In addition, Dr De Almeida's case did not align with the list of examples set out in the SG to explain when undertakings might be appropriate.

Conditions

39. The Tribunal next considered whether to impose conditions on Dr De Almeida's registration. The Tribunal acknowledged conditions must be appropriate, proportionate, workable and measurable. This case does not concern Dr De Almeida's clinical practice as a psychiatrist. It related to her decision to fraudulently prescribe medication for a person with whom she had a close personal relationship.

40. The Tribunal was mindful of the submissions made. Dr De Almeida had suggested that the Tribunal 'start' with considering whether conditions would be appropriate. Whereas Ms Renton, on behalf of the GMC, submitted that it would not be possible for conditions to be formulated that address Dr De Almeida's dishonesty nor the seriousness of her conviction.

41. The SG advises that in many cases, the purpose of conditions is to help the doctor to deal with their health issues and/or remedy any deficiencies in their practice or knowledge of

English, while protecting the public by placing conditions on a doctor's registration. These factors are not relevant to Dr De Almeida's case. The SG also advises that conditions are likely to be workable where the doctor has insight and a period of retraining and/or supervision is likely to be the most appropriate way of addressing its findings. The Tribunal was concerned that Dr De Almeida's insight was partial. It did not consider that a period of retraining and/or supervision was appropriate in addressing dishonesty.

42. The Tribunal was mindful that the SG provides that in cases of dishonesty, it is difficult to identify any conditions that could be appropriate, proportionate, workable, and measurable. It was also concerned that the imposition of conditions did not reflect the serious and persistent nature of the dishonesty in this case and the serious breaches of GMP. In light of Dr De Almeida's conviction for fraud, an offence involving dishonesty over an extended period, the Tribunal determined that it would not be possible to formulate conditions given the specific circumstances of this case. The Tribunal therefore did not consider the imposition of conditions as a proportionate and appropriate sanction in the circumstances of this case.

Suspension

43. The Tribunal went on to consider whether to impose a period of suspension on Dr De Almeida's registration. It reminded itself that suspension was the sanction sought by the GMC. The Tribunal accepted that suspension does have a deterrent effect and can be used to send a signal to Dr De Almeida, the profession, and the public about what is regarded as behaviour unbecoming a registered doctor. The Tribunal considered paragraphs 92 and 97a, e and f to be engaged in this case:

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 (i.e. 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).

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...

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

f No evidence of repetition of similar behaviour since incident.

44. The Tribunal considered that Dr De Almeida's case accorded with this guidance. Whilst the Tribunal considered that Dr De Almeida's conviction was serious in nature, it also found there to be significant mitigation in this case. There was no evidence to suggest that Dr De Almeida had repeated her fraudulent behaviour, she had paid the costs, compensation and victim surcharge and had completed her 80 hours of unpaid work. Her suspended sentence has now expired. Further, Dr De Almeida has shown remorse, apologising for her actions at all stages of the proceedings and shown no reluctance to engage in remediation but had yet to do so satisfactorily.

45. The Tribunal had already concluded that Dr De Almeida has developed some insight into her conviction and what led her to write eight fraudulent prescriptions but her insight into her behaviour and her decision to continue to deny her involvement until 10 February 2020 had yet to be adequately explored. Dr De Almeida completed some remediation but has not focussed her remediation on prescribing, probity and ethics. Though the Tribunal identified that a risk of repetition remained, it was satisfied that Dr De Almeida had taken some steps to understand and remediate her conviction and the actions that led to it.

46. The Tribunal determined that Dr De Almeida's actions, balanced against her developing insight, remediation and the relevant mitigating factors, were not fundamentally incompatible with continued registration. The Tribunal considered that to erase Dr De Almeida's name from the medical register would be disproportionate and would not serve the wider public interest. Nevertheless, Dr De Almeida's conviction was so serious that it did require action to be taken in order to uphold the overarching objective to maintain public confidence in the profession and to maintain proper professional standards and conduct. The

sanction of suspension represented a deterrent and was a clear signal to Dr De Almeida, the profession and the public that what Dr De Almeida did was a serious breach of her duties and of GMP. The Tribunal determined that suspension was the proportionate and appropriate sanction in all the circumstances.

47. Having considered the sanctions in ascending order of restrictiveness and having determined to suspend Dr De Almeida's registration, the Tribunal went on to consider the length of the period of suspension. The SG advises that the following factors are relevant in determining the length of suspension: (a) the risk to patient safety/public protection; (b) the seriousness of the findings and any mitigating and aggravating factors; and (c) ensuring that the doctor has adequate time to remediate. Further factors are listed in the table following paragraph 102 in the SG.

48. Having considered this guidance the Tribunal determined to suspend Dr De Almeida's registration from the medical register for a period of four months. It was satisfied that such a period marked the seriousness of Dr De Almeida's conviction and upheld the overarching objective to maintain public confidence in the profession and uphold proper professional standards. The Tribunal concluded that a suspension of this length would provide Dr De Almeida with an opportunity to demonstrate further development of her insight, more targeted remediation and allow her to show that she had taken steps to further reduce any risk of repetition.

49. The Tribunal determined to direct a review of Dr De Almeida's case. A review hearing will convene shortly before the end of the period of suspension unless an early review is sought. The Tribunal wishes to clarify that, at the review hearing, it will be Dr De Almeida's responsibility to demonstrate how she has addressed this Tribunal's concerns and is fit to practise without restriction. It therefore may assist the reviewing Tribunal if Dr De Almeida provides:

- Evidence that she has completed and reflected upon courses relevant to her conviction and her dishonesty, this could include courses on appropriate prescribing, probity and ethics;
- A further statement of personal reflections demonstrating that Dr De Almeida has developed further insight into her actions, including XXX and why she continued to deny her fraudulent behaviour until February 2020;
- Evidence that she has kept her clinical knowledge and skills up to date during her suspension; and

- Any other information she thinks will assist the next Tribunal.

Determination on Immediate Order - 18/08/2022

1. Having determined to suspend Dr De Almeida's registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether her registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Ms Renton submitted the GMC was not seeking an immediate order in this case.

3. Dr De Almeida did not make any submissions.

The Tribunal's Determination

4. The Tribunal had regard to paragraphs 172 and 178 of the SG. It took account of the guidance, the submissions of both parties and the specific basis upon which the Tribunal reached its determination on sanction.

5. It determined that the substantive order upholds the overarching objective in maintaining public confidence in the profession and that in the absence of any concerns about Dr De Almeida's clinical competence or any concerns about Dr De Almeida posing a risk to patient safety, an immediate order would not be necessary in this case.

6. The Tribunal therefore determined not to impose an immediate order of suspension on Dr De Almeida's registration.

7. This means that Dr De Almeida's registration will be suspended from the Medical Register 28 days from when notice of this decision is deemed to have been served upon her, unless she lodges an appeal. If Dr De Almeida does lodge an appeal she will remain free to practise unrestricted until the outcome of any appeal is known.

8. The interim order currently imposed on Dr De Almeida's registration is hereby revoked.

9. That concludes the case.