PUBLIC RECORD

Dates: 05/06/2023 - 12/06/2023

Medical Practitioner's name:	Dr Behzad TAVAKOLI
GMC reference number:	7025715
Primary medical qualification:	MD 1994 Kermanshah University of Medical Sciences

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

Summary of outcome

Suspension, 9 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mrs Aaminah Khan
Lay Tribunal Member:	Mr John Kelly
Medical Tribunal Member:	Dr Helen McCormack

Tribunal Clerk:	Mr Joel Taylor

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Penny Maudsley, Counsel
GMC Representative:	Ms Chloe Fordham, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 08/06/2023

Background

1. Dr Tavakoli qualified as a doctor in Iran in 1994 and, prior to the events which are the subject of the hearing, he worked as a mid-grade locum doctor in hospitals at various Trusts. At the time of the events, Dr Tavakoli was practising as a full time Accident and Emergency locum doctor.

2. The allegation that led to Dr Tavakoli's hearing can be summarised as that he behaved dishonestly when completing an application form for a job in Emergency Medicine at Whittington Health NHS Trust ('the Trust') in that it is alleged that Dr Tavakoli did not disclose XXX, nor did he disclose that he had been issued with a warning by the GMC on 7 March 2014.

3. The initial concerns were raised with the GMC on 18 December 2018 by the Trust.

4. The background to this matter is as follows. XXX. Investigation 1 came about because Dr Tavakoli accepted a caution from the Police on 19 October 2012, but did not declare this in a subsequent job application nor did he declare it to the GMC. This investigation was opened on 9 January 2013 and resulted in Dr Tavakoli being issued with a warning by the GMC, which was effective from 6 March 2014 until 5 March 2019.

5. XXX

6. XXX

The Outcome of Applications Made during the Facts Stage

7. On 5 June 2023 and 7 June 2023, the Tribunal granted Dr Tavakoli's applications, made pursuant to Rule 34 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to adduce further evidence. Having regard to the submissions

from both parties and bearing in mind the principle of fairness, the Tribunal determined that the documents to be adduced were relevant to the issues in the case and it would be fair to admit them into evidence. There was no objection on behalf of the GMC to the admission of these documents. The documents included Dr Tavakoli's CV, XXX, three testimonials and emails relevant to the facts of the case.

The Allegation and the Doctor's Response

8. The Allegation made against Dr Tavakoli is as follows:

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

1. Between 23 October and 4 December 2018, you submitted an application to Whittington Health NHS Trust and you answered 'No' to the following questions:

    a. 'XXX'; Admitted and found proved

    b. 'Have you ever been removed from the register, or have conditions or sanctions been placed on your registration, or have you been issued with a warning by a regulatory or licensing body in the UK or in any other country? You should tick NO where any right to appeal has been upheld and where that appeal has resulted in your case being fully exonerated.'. Admitted and found proved

2. When you answered 'No' to the questions as set out at paragraph 1, you knew that:

    a. XXX;
    To be determined

    b. you had been issued with a warning by the GMC on 7 March 2014.
    To be determined

3. Your actions as described at paragraph 1 were dishonest by reason of paragraph 2. 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

9. At the outset of these proceedings, through his counsel, Ms Maudsley, Dr Tavakoli made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) 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.

The Facts to be Determined

10. In light of Dr Tavakoli's response to the Allegation made against him, the Tribunal is required to determine whether, at the time of the application, Dr Tavakoli knew that XXX he had been issued with a warning by the GMC, when he answered 'No' to the questions set out above. The Tribunal must also determine if Dr Tavakoli's actions in answering 'No' to the questions was dishonest.

Witness Evidence

11. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Dr A, Consultant and Clinical Lead at the Trust, by video link;
- Mr B, GMC Investigation Officer, by video link.

12. Dr Tavakoli provided his own witness statement dated 4 May 2023 and also gave oral evidence at the hearing, by video link, as the hearing was conducted remotely. In his evidence, Dr Tavakoli told the Tribunal that, as part of a pilot scheme called 'meetings with doctors', he attended a meeting to discuss the Allegation relating to Investigation 1 in October 2013. He told the Tribunal that at this meeting he was advised to accept a warning, which he did. He said he was not happy to receive a warning from the GMC and knew it was serious but he wanted to move on from the issue. Dr Tavakoli said he recalled receiving the written notification of his warning in March of 2014.

13. Dr Tavakoli said that when he was filling in the application for to the Trust, which he completed on 8 November 2018, he saw XXX that his Police caution had expired. He knew that the caution was for six years and that the GMC warning was for five. He said that he knew he had received the GMC warning around a year after the Police caution and so he *'calculated'* that the GMC warning must have also expired at the time that he was completing the application form. He said that he was confident in this *'calculation'* so he did not feel that he needed to check the expiry of his warning.

14. Dr Tavakoli also told the Tribunal that he thought that a previous question on the application form – one relating to '*Police cautions, reprimands or final warnings*' – had already dealt with his GMC warning. Additionally, Dr Tavakoli told the Tribunal that when he answered *'No'* to the question at paragraph 1(b) of the Allegation, as this was a long question in several parts, he may not have read the question clearly enough and did not realise that it was asking about GMC warnings.

15. XXX

16. XXX

17. XXX

18. XXX

Documentary Evidence

19. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to various email correspondence between Dr Tavakoli and the GMC, XXX, extracts from application forms and a chronology of events.

The Tribunal's Approach

20. In reaching its decision on facts, the Tribunal bore in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Tavakoli 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.

21. The Tribunal bore in mind that, whilst it must reach a conclusion on each paragraph of the Allegation separately, it is entitled, in determining whether or not each paragraph is proved, to have regard to relevant evidence in regard to any other paragraph. It may consider the evidence in the round.

22. The Tribunal was aware that it is required to make decisions based on the whole evidence, deciding what evidence to accept, what to reject and what weight to attach to evidence, assessing all of the evidence that has been presented, both witness evidence and documentary evidence.

23. The Tribunal was mindful that reasonable inferences can be drawn from the evidence, but that it must not speculate on matters that it has not heard evidence about or speculate about what other evidence might have been called.

24. The Tribunal had regard to the case of *Byrne v General Medical Council [2021] EWHC 2237 (Admin)*, which set out that:

> *'Where possible, factual findings should be based on objective facts as shown by contemporaneous documents. However, corroborating documentary evidence is not always required or available. Where the case turns upon which oral account to accept, the approach of first considering documentary evidence before assessing the credibility of a witness's oral account has less significance'*

25. Regarding assessing the credibility of witnesses, the Tribunal had regard to the case of *Dutta v GMC [2020] EWHC 1974 (Admin)*, which warns Tribunals against assessing credibility based largely on demeanour, and warning not to make the errors that (1) the stronger or more vivid a recollection the more likely it is to be accurate and also (2) the more confident a person is in their recollection, the more likely it is to be accurate – a confident witness can have a false memory of an event. The Tribunal was also reminded that credibility can be divisible, and it is open to the Tribunal to accept parts of a witnesses evidence and not others.

26. The Tribunal bore in mind the test for dishonesty as set out in *Ivey v Genting Casinos [2017] UKSC 67:*

> *'74 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.'*

27. There is often no direct evidence of dishonesty, but the Tribunal can draw inferences about the Doctor's state of mind from the evidence, however this must be the most likely inference in the circumstances. Because of the objective test in Ivey there is no

requirement that the doctor must appreciate that what he has done is by those standards of ordinary people dishonest.

28. The Tribunal had regard to the cases of *Wisson v Health Professions Council (2013) EWHC 1036* and *Sawati v General Medical Council [2022] EWHC 283 (Admin)*, which set out that, in cases of dishonesty, testimonial evidence can be relevant to the facts stage of proceedings, but the weight attached to such evidence is a matter for the Tribunal.

29. The Tribunal was also mindful that recklessness cannot be equated with dishonesty, as set out in *Ahmedsowida v The General Medical Council [2021] EWHC 3466 (Admin).*

The Tribunal's Analysis of the Evidence and Findings

30. 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.

Paragraph 2(a)

31. This paragraph of the Allegation relates to whether, at the time that the application form was completed by Dr Tavakoli, and he answered *'No'* to the questions set out in paragraph 1, XXX. The Tribunal noted that the relevant time for the completion of the application form was alleged to be between 23 October 2018, which is when the job was advertised and 4 December 2018, which is when Dr Tavakoli was interviewed by the Trust. Dr Tavakoli's evidence was that the form was completed on 8 November 2018, and in support of this he produced the email that he had received from the Trust on that date which acknowledged receipt of the application. The Tribunal therefore considered it likely that the application was completed on or shortly before 8 November 2018.

32. The Tribunal began by assessing the contemporaneous documentary evidence, in particular the series of emails between the GMC and Dr Tavakoli, in which updates were provided by the GMC to Dr Tavakoli XXX. The Tribunal was mindful of Ms Maudsley's submission that it should look at the email correspondence as a whole and considered that this was a reasonable approach.

33. The Tribunal reminded itself of Dr Tavakoli's evidence that he understood from the GMC's letter dated 7 September 2016 that XXX.

34. The Tribunal compared these two letters and noted their similar format and language. In particular, it noted the line from the 20 December 2017 letter that read XXX.

35. XXX. The Tribunal recalled that Dr Tavakoli had given evidence that he thought this introductory line was just part of a template and that he did not think it constituted part of the body of the email. He understood this line to be merely a greeting to say that they GMC were getting in touch with an update.

36. The Tribunal considered that a typical person receiving such an email from an official body such as the GMC would not disregard as unimportant any section of correspondence – they would understand that everything contained within the email was of importance and of relevance to the subject at hand.

37. XXX

38. XXX

39. XXX

40. XXX

41. XXX.

42. The Tribunal turned to consider Dr Tavakoli's evidence and his credibility. The Tribunal considered that many of Dr Tavakoli's responses were straightforward and that he was doing the best that he could to explain his position. However, the Tribunal was concerned about the contradictory nature of some of his responses. Of particular note, the Tribunal considered that Dr Tavakoli gave contradictory explanations about why he did not declare that he was subject to a warning. These explanations included that he had not read the question clearly enough, that he thought an earlier question had dealt with warnings and that he relied upon his calculation that his warning had already expired (which suggested that he had read the question and noted it applied to warnings).

43. The Tribunal was mindful that Dr Tavakoli had previously been issued with the following warning:

    'XXX'

44. The Tribunal had regard to Dr Tavakoli's oral evidence that, following receipt of the above warning, he was aware that he needed to be precise and accurate when

completing forms. The Tribunal considered that this was at odds with the various explanations that Dr Tavakoli advanced, as set out at paragraph 42 above.

45. The Tribunal noted the three positive testimonials that were given on Dr Tavakoli's behalf but were only able to attach limited weight to these as they did not give examples of his honesty and in light of Dr Tavakoli's regulatory fitness to practise history of a similar nature, as his warning was issued for failing to declare a Police caution.

46. The Tribunal also had regard to Ms Maudsley's submission that Dr Tavakoli's first language is not English. The Tribunal was mindful of this issue and accepted that whilst it was possible that Dr Tavakoli may have misunderstood what was meant by words such as 'proceed', the correspondence was generally written in plain English and left little room for misinterpretation. In addition, whilst English was not Dr Tavakoli's first language, he had worked in various hospitals in the UK for many years. The Tribunal was also of the view that Dr Tavakoli could have sought clarification from the GMC at any point if he were unsure about whether he was under investigation, as he had sought clarification from them regarding correspondence he was unsure of previously.

47. XXX

48. XXX

Paragraph 2(b)

49. The Tribunal noted that the allegation as drafted referred only to Dr Tavakoli having knowledge that he had been issued a warning on 7 March 2014. The Tribunal had regard to Dr Tavakoli's oral evidence where he stated that he recalled receiving the letter containing the warning in March 2014 and that he had checked his online account from time to time to see whether the warning was still present. The Tribunal also noted submissions of both parties that it was not contested that Dr Tavakoli knew he had been issued a warning in March 2014. Therefore, the Tribunal determined that this paragraph was proved by virtue of Dr Tavakoli's oral evidence.

Paragraph 3

50. The Tribunal turned to the test set out in *Ivey* and considered first the subjective limb of the test. The Tribunal considered that given the issues with Dr Tavakoli's credibility, as outlined above, and the contradictory positions in his evidence, it was unlikely that Dr Tavakoli held a genuine belief that XXX nor that he had been issued with a warning. The

Tribunal was concerned by the multiple conflicting accounts that Dr Tavakoli gave for his actions. In addition, the Tribunal agreed with the submission of Ms Fordham that the background of Dr Tavakoli having received a warning from the GMC in the past for not declaring the police caution made dishonesty in this case on behalf of Dr Tavakoli all the more likely, as he was on notice of the importance of carefully completing and providing accurate information in application forms, which in his evidence he agreed he had understood.

51. The Tribunal considered that the plain reading of the question set out in paragraph 1(b) of the Allegation, particularly the words '*or have you been issued with a warning*' is that a doctor who has ever received a warning, whether it had expired or not, should answer 'yes' and then give further information. This would be information which a prospective employer would wish to know and the obvious purpose of the question. In light of this, the Tribunal considered that Dr Tavakoli should have answered 'yes' to that question regardless of whether or not, or when, his warning elapsed.

52. The Tribunal noted that there was no clear motivation for Dr Tavakoli to be dishonest in respect of the warning, given that as his warning was still current this could easily have been checked by the Trust, but that that did not mean that there was no motivation. XXX.

53. The Tribunal found it difficult to ascertain what Dr Tavakoli's belief was at the time of completing the application form, given the contradictions in his evidence and the Tribunal's assessment of his credibility. Having found paragraph 2 of the Allegation proved, the Tribunal was satisfied that Dr Tavakoli knew he XXX and had a warning when he applied to the Trust. It considered that the most likely explanation of Dr Tavakoli's conduct was that he had been deliberately evasive and chose not to declare these matters, and therefore was dishonest.

54. The Tribunal also found that Dr Tavakoli's actions would be considered dishonest by the standards of ordinary, decent people if they were to be informed of the circumstances of this case and the correspondence that Dr Tavakoli had received from the GMC prior to his application.

55. In light of this, the Tribunal found paragraph 3 of the Allegation to be proved.

The Tribunal's Overall Determination on the Facts

56. The Tribunal has determined the facts as follows:

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

1. Between 23 October and 4 December 2018, you submitted an application to Whittington Health NHS Trust and you answered 'No' to the following questions:

    a. 'XXX'; Admitted and found proved

    b. 'Have you ever been removed from the register, or have conditions or sanctions been placed on your registration, or have you been issued with a warning by a regulatory or licensing body in the UK or in any other country? You should tick NO where any right to appeal has been upheld and where that appeal has resulted in your case being fully exonerated.'. Admitted and found proved

2. When you answered 'No' to the questions as set out at paragraph 1, you knew that:

    a. XXX;
    Determined and found proved

    b. you had been issued with a warning by the GMC on 7 March 2014.
    Determined and found proved

3. Your actions as described at paragraph 1 were dishonest by reason of paragraph 2. Determined and found 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 - 09/06/2023

57. 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 Tavakoli's fitness to practise is impaired by reason of misconduct.

The Evidence

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

59. The Tribunal also received further evidence, which included, but was not limited to, Dr Tavakoli's reflective statement, dated 8 June 2023, further correspondence between Dr Tavakoli and the GMC, a Probity for Doctors course completion certificate and evidence of Dr Tavakoli's Continuing Professional Development ('CPD').

Submissions

60. On behalf of the GMC, Ms Fordham reminded the Tribunal of the two-stage process that they must follow to determine if Dr Tavakoli's fitness to practise is impaired; firstly, to consider whether his conduct amounted to serious professional misconduct and, if so, whether Dr Tavakoli's fitness to practise is impaired as a result. She submitted that Dr Tavakoli's actions were properly described as professional misconduct, as they related to his application for a doctor's role.

5. Ms Fordham reminded the Tribunal that the conduct was of a similar nature to that which led to him receiving a warning in 2014. She said that it was identified in that warning that Dr Tavakoli had breached paragraphs of Good Medical Practice ('2013') ('GMP') in particular, paragraph 71. Ms Fordham submitted that Dr Tavakoli had breached the same paragraphs of GMP in this case and that this aggravated the seriousness of his conduct, which she submitted amounted to serious professional misconduct.

61. Ms Fordham submitted that Dr Tavakoli deliberately, intending to mislead the Trust, failed to declare both an active warning and XXX, which breached fundamental tenets of the profession to be open and honest and act with integrity.

62. Ms Fordham referred the Tribunal to paragraph 124 of the Sanctions Guidance (2020) ('the SG'), which states:

> *'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.'*

63. Ms Fordham acknowledged that the SG was most relevant to the sanction stage of proceedings but submitted that paragraph 124 clearly sets out the serious nature of

dishonesty, which is relevant to the Tribunal's decision on whether the misconduct was serious.

64. Ms Fordham also referred the Tribunal to the case of *Nicholas-Pillai v GMC [2009] EWHC 1048 (Admin)*, which she submitted further set out the serious nature of dishonesty:

> *'In cases of actual proven dishonesty, the balance ordinarily can be expected to fall down on the side of maintaining public confidence in the profession by a severe sanction against the practitioner concerned. Indeed, that sanction will often and perfectly properly be the sanction of erasure.'*

65. Ms Fordham submitted that health authorities must be able to trust the information that is supplied by doctors when they apply for positions and that Dr Tavakoli had undermined this trust. She said that it was true that the Trust was able to independently check and find out that Dr Tavakoli was subject to a warning but that this did not discharge Dr Tavakoli's responsibility to declare it in the application form. XXX.

66. Ms Fordham referred the Tribunal to the test for impairment as set out below in the case of *Grant*. She submitted that Dr Tavakoli breached multiple paragraphs of GMP, breached fundamental tenets of the profession and in doing so, brought the profession into disrepute. She said that Dr Tavakoli's actions and the resulting breaches of GMP meant that his integrity could not be relied upon and that his fitness to practise is impaired.

12. Ms Fordham referred the Tribunal to the case of *Cohen v GMC [2008] EWHC 581*, which states:

> *'…the task of the Panel is to take account of the misconduct of the practitioner and then to consider it in the light of all the other relevant factors known to them in answering whether by reason of the doctor's misconduct, his or her fitness to practice has been impaired…There must always be situations in which a Panel can properly conclude that the act of misconduct was an isolated error on the part of a medical practitioner and that the chance of it being repeated in the future is so remote that his or her fitness to practice has not been impaired.'*

67. Ms Fordham submitted that this was not an isolated incident nor was the risk of repetition remote. She reminded the Tribunal of the similar nature of Dr Tavakoli's actions that resulted in his warning in 2014 and submitted that he is at risk of repeated this behaviour again.

68. To further underline the seriousness of dishonesty, Ms Fordham referred the Tribunal to the cases of *PSA v HCPC and Ghaffar [2014] EWHC 2723 (Admin)* and *Naheed v GMC [2011] EWHC 702 (Admin)*. In these cases it states:

    'While each case will turn on its own facts, it will therefore be an unusual case where dishonesty is not found to impair fitness to practise.'

    And:

    'Dishonesty acts which compromise the integrity of job applications are acts which undermine something fundamental to the system of medicine.'

69. Ms Fordham submitted that, in line with the test set out in *Grant*, it was necessary for the Tribunal to make a finding of impairment in order to uphold public confidence in the profession. She also said that the Tribunal should consider if the need to uphold and maintain proper professional standards and the need to maintain public trust in the profession would be undermined if a finding of impairment was not made.

70. Finally, Ms Fordham submitted that the nature of the dishonesty means that the Tribunal should give little weight to the testimonial evidence before it.

71. On behalf of Dr Tavakoli, Ms Maudsley submitted that, whilst dishonesty is always serious, there are varying degrees of dishonesty. She told the Tribunal that, in this case, there was no financial gain on Dr Tavakoli's part. Indeed, he had lost the opportunity of employment because of his dishonesty and that Dr Tavakoli was the only victim in this case. Ms Maudsley referred the Tribunal to the case of *PSA v GMC & Uppal [2015] EWHC 1304 (Admin)*, which sets out that not all instances of dishonesty will lead to a finding of impairment.

72. Ms Maudsley submitted that Dr Tavakoli had reflected on his actions and, whilst he maintained that he was not dishonest, accepts that he acted recklessly when completing the application form and that he offered an apology. She said that Dr Tavakoli now understands that XXX his warning was still active when he completed his application. Dr Tavakoli accepted that looking back he should have been more diligent when completing the form and he now understands the need to declare these matters.

19. Ms Maudsley told the Tribunal that Dr Tavakoli had made efforts to remediate and keep his knowledge and skills up to date. Dr Tavakoli had completed a course on probity and

Ms Maudsley submitted that he now understood that if he were in any doubt about declaring a warning XXX, he should do so or seek advice. She also reminded the Tribunal that there were no other instances of Dr Tavakoli failing to declare his warning while it was active and that this was supported by Mr B's evidence. Ms Maudsley referred the Tribunal to the emails in the bundle which showed that Dr Tavakoli had made sure that he was declaring these matters to employment agencies and to keep the GMC updated more recently and that there had been no further complaints or repetition of the conduct in the 4.5 years since the misconduct occurred.

73. Ms Maudsley submitted that the fact that Dr Tavakoli had offered a defence of his actions, which were found to be dishonest, should not be used against him as aggravation when considering impairment as set out in *Sawati v General Medical Council [2022] EWHC 283 (Admin).*

74. Ms Maudsley submitted that public confidence in the profession would not be undermined if a finding of impairment was not made because Dr Tavakoli was highly unlikely to repeat his actions, had been open and honest with the GMC and his employers in the intervening time and had had no criticism of his clinical skills.

75. Ms Maudsley submitted that it was possible for the Tribunal to find that Dr Tavakoli's fitness to practise is not impaired because of his insight, reflections, his apology, his remediation of the concerns and the lack of repetition.

The Relevant Legal Principles

76. 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.

77. In approaching its decision, the Tribunal was mindful of the two-stage process to be adopted: first, whether the facts as found proved amounted to misconduct, which was serious, and secondly, whether the doctor's fitness to practise is currently impaired by reason of that misconduct.

78. The Tribunal was mindful that it must determine whether Dr Tavakoli's fitness to practise is impaired today, taking into account Dr Tavakoli'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.

79. The Tribunal bore in mind Dame Janet Smith's test in The Fifth Shipman Report, cited in *CHRE v NMC and P Grant [2011] EWHC 927 (Admin):*

> *'a) Whether the registrant 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;*
>
> *b) Whether the registrant has in the past brought and/or is liable in the future to bring the profession into disrepute;*
>
> *c) Whether the registrant has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.*
>
> *d) Whether the registrant has in the past acted dishonestly and/or is liable to act dishonestly in the future.*
>
> --
>
> *74 In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

80. The Tribunal reminded itself that misconduct must be considered in relation to GMP, which, at paragraph 5, sets out that the phrase *'you must is used for an overriding duty or principle'.*

81. The Tribunal had regard to the case of *GMC v Armstrong [2021] EWHC 1658 (Admin)*, which sets out that dishonesty can arise in a variety of circumstances and in a range of seriousness and that Tribunals must have proper regard to the nature and extent of the dishonesty and engage with the weight of the public interest factors tending towards a finding of impairment. This case also sets out that, in cases of dishonesty, the impact on public confidence in the profession is not diminished by a low risk of repetition and that the Tribunal must consider the weight that it puts on personal mitigation as this may have a more limited role in cases of dishonesty. It also sets out that it is a rare or unusual case where dishonesty does not lead to a finding of impairment.

29. The Tribunal had at the forefront of its mind all three limbs of the overarching objective of the GMC set out in section 1 of the Medical Act 1983 (as amended) to:

    a. Protect, promote and maintain the health, safety and well-being of the public,

    b. Promote and maintain public confidence in the medical profession, and

    c. Promote and maintain proper professional standards and conduct for members of that profession.

The Tribunal's Determination on Impairment

Misconduct

82. The Tribunal began by considering if Dr Tavakoli's actions amounted to misconduct and did so with reference to the relevant sections of GMP, which sets out the standards that a doctor must continue to meet throughout their professional career. The Tribunal considered the following paragraphs to be relevant:

    '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.'

83. The Tribunal considered that it was clear that Dr Tavakoli had departed from GMP in regards to all the paragraphs above. The Tribunal also noted that Dr Tavakoli's warning was still active at the time of events and significantly that it was for the same type of conduct that was under consideration at this hearing.

84. XXX

85. XXX

86. The Tribunal considered whether the departures from GMP were serious. The Tribunal did not accept Ms Maudsley's submission that Dr Tavakoli was the only person that had suffered in this case. It observed that, if a doctor gives false information on an application form, there may be relevant issues that others are not aware of. This could in some circumstances also lead to risks to patients. The Tribunal considered this submission took a narrow view of Dr Tavakoli's conduct, whilst the Tribunal took a wider view of the potential impact of his actions. The Tribunal considered that Dr Tavakoli had a duty of candour to declare issues such as his FtP history XXX to any prospective employers.

87. The Tribunal considered that Dr Tavakoli's actions undermined the recruitment process, which is fundamental to doctors developing new skills and experience. The Tribunal considered that being able to trust the recruitment process and be confident in the information supplied by doctors when making applications is critical to public confidence in the profession.

88. In light of the above, and paying particular regard to his prior warning for similar conduct, the Tribunal considered that other members of the profession would find his actions deplorable. The Tribunal found that Dr Tavakoli's actions brought the profession into disrepute and undermined public trust and confidence in the profession and has breached a fundamental tenet of the profession.

89. Therefore, the Tribunal concluded that Dr Tavakoli's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct.

<u>Impairment</u>

90. The Tribunal having found that the facts found proved amounted to misconduct, which was serious, went on to consider whether, as a result of that misconduct, Dr Tavakoli's fitness to practise is currently impaired. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal looked for evidence of insight, remediation and the likelihood of repetition, bearing in mind the three elements of the overarching statutory objective.

91. The Tribunal considered the further material that had been put before them by Dr Tavakoli in the impairment bundle, including his reflective statement. The Tribunal noted that a substantial part of Dr Tavakoli's reflective statement was written in the third person and in general terms, about what doctors should do rather than making personal reflections. The Tribunal considered that Dr Tavakoli could have offered more specific reflections on how his personal actions could have been perceived. The Tribunal also found that the statement lacked analysis on what led to Dr Tavakoli's actions, or observations on their consequences.

92. The Tribunal noted that it was still Dr Tavakoli's position that he had not been dishonest and he was entitled to defend himself and maintain that position. However, the Tribunal considered that it was still open for him to reflect upon the drivers that led to the events in question from this perspective. The Tribunal noted that Dr Tavakoli said in his reflective statement that he had been *'reckless'* in his actions but did not expand on why he acted in this manner. The Tribunal considered that Dr Tavakoli reflecting further on his state of mind and motivation at the time would help give it confidence that the risk of repetition was low.

93. The Tribunal accepted that Dr Tavakoli had attended a probity course but considered that Dr Tavakoli had not reflected in any detail in his reflective statement about what he had learned from this. The Tribunal also noted that the probity course and Dr Tavakoli's reflective statement were very recently completed despite the misconduct occurring over four years ago. The Tribunal considered Dr Tavakoli's insight had only recently started to develop.

94. The Tribunal further considered that Dr Tavakoli should have realised that he needed to be more careful and accurate when completing forms when he was first issued with a warning in 2014 and that it was of the view that Dr Tavakoli had not learnt from that earlier incident.

95. The Tribunal considered that there was little evidence of remediation other than the probity course and found Dr Tavakoli to be at the start of the journey to develop insight and remediate. The Tribunal did not accept Ms Maudsley's submission that the risk of repetition was low. Although over four years had passed since the misconduct, with no further similar complaints, considering Dr Tavakoli's lack of insight and the repeated nature of his actions, the Tribunal considered that there remains a significant risk of repetition.

96. The Tribunal turned to the *Grant* test and considered that limbs two, three and four are engaged in this case. It considered that Dr Tavakoli had brought the profession into disrepute, had breached fundamental tenets of the profession and acted dishonestly.

97. The Tribunal noted the positive remarks in his testimonial evidence and recalled that there were no clinical concerns in this case. Further, there is no evidence of any harm to patients as a result of the misconduct. However, the Tribunal found that it could give limited weight to this testimonial evidence because of the nature of Dr Tavakoli's misconduct being dishonesty.

98. Taking account of the above, the Tribunal considered that the need to uphold and maintain proper professional standards and the need to maintain public confidence in the profession required it to find that Dr Tavakoli's fitness to practise is impaired. It considered that public trust in the profession would be significantly undermined if it did not find Dr Tavakoli's fitness to practise to be impaired.

99. The Tribunal also noted that, whilst there were no patient safety concerns in this particular case, patient safety could potentially be at risk if a doctor is dishonest on an application form.

100. The Tribunal has therefore determined that Dr Tavakoli's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 12/06/2023

101. Having determined that Dr Tavakoli'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

102.The Tribunal took into account evidence received during the earlier stages of the hearing where relevant in reaching a decision on sanction.

Submissions

103.On behalf of the GMC, Ms Fordham submitted that, whilst it is a matter for the Tribunal, the most appropriate sanction in this case was one of suspension. She referred the Tribunal to paragraph 14 of the SG and submitted that limbs (b) and (c) were relevant in this case:

> *'14 The main reason for imposing sanctions is to protect the public. This is the statutory overarching objective, which includes to:*
>
> *a protect and promote the health, safety and wellbeing of the public*
>
> *b promote and maintain public confidence in the medical profession*
>
> *c promote and maintain proper professional standards and conduct for the members of the profession.'*

104.Ms Fordham also referred the Tribunal to paragraph 124 of the SG, which she submitted was of particular relevance to this case:

> *'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.'*

105.Ms Fordham submitted that the Trust should have been able to rely upon Dr Tavakoli's representations in his application as accurate and truthful. She referred the Tribunal to the cases of *Tait v Royal College of Veterinary Surgeons [2003] UKPC 34*, *Bolton v The Law Society [1993] EWCA Civ 32* and *Luthra v General Medical Council [2013] EWHC 240 (Admin)*, which she submitted established that the reputation of the profession was more important than that of an individual member of the profession and that dishonesty was at the top end of misconduct and would likely lead to a sanction of erasure. However, she also brought to the Tribunal's attention the case of *Igboaka v GMC [2016]*

EWHC 2728 (Admin), which sets out that it is not inevitable that a finding of dishonesty leads to erasure.

106. Ms Fordham reminded the Tribunal that it must begin by considering the least restrictive sanction, namely that of taking no action. She submitted that this was not a case where taking no action was appropriate as there were no exceptional circumstances to justify doing so.

107. In relation to an order of conditions, Ms Fordham directed the Tribunal to paragraph 81 of the SG, which sets out when conditions may be the most appropriate sanction. She Submitted that this case did not fall into any of these categories:

> *'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.'*

108. In addition, Ms Fordham submitted that a period of conditions would not be appropriate in this case because it would not be possible, due to the nature of dishonesty, to formulate conditions to adequately address the need to promote and maintain proper professional standards and to uphold public confidence in the profession. She further submitted that Dr Tavakoli's lack of insight into his dishonesty means that this case is not one which could be met by a period of conditions.

109. In relation to suspension, Ms Fordham referred the Tribunal to paragraph 91 of the SG, which sets out that suspension has a deterrent effect and can be used to send a signal to Dr Tavakoli and the profession about what is regarded as appropriate behaviour. She submitted that suspension is appropriate in cases that are serious enough to require action to be taken, but that fall short of being fundamentally incompatible with continued registration and that this was such a case.

110. Ms Fordham reminded the Tribunal of its findings at the impairment stage that Dr Tavakoli had made significant departures from GMP, lacked insight and was at risk of repeating his misconduct. She told the Tribunal that paragraph 97(f) of the SG indicates that suspension may be appropriate in cases where there has been no repetition of the misconduct. Ms Fordham submitted that, whilst the seriousness of the case was aggravated by Dr Tavakoli's previous warning, there had been no evidence of him repeating his misconduct in the nearly five years since.

111. Ms Fordham observed that the risk of repetition may lead the Tribunal to consider if an order of suspension would be sufficient or if it should consider erasure. However, she submitted that, taking into account all of the facts of the case, and applying the principle of proportionality, an order of suspension would be the most appropriate sanction and would be sufficient to mark the seriousness of Dr Tavakoli's misconduct. She also submitted that Dr Tavakoli was considered a competent doctor and that there was a public interest in having good doctors on the register.

112. On behalf of Dr Tavakoli, Ms Maudsley reminded the Tribunal that the main reason to impose sanctions was to protect the public and that it must bear in mind the principle of proportionality, as well as balance the mitigating and aggravating factors.

113. Ms Maudsley reminded the Tribunal of the particular circumstances of the case that led to the misconduct. Dr Tavakoli had applied for a substantive post because he wanted to have a more stable position, rather than travelling around the UK for locum work, which he continued to do after his application was rejected. She said that whilst Dr Tavakoli denied dishonesty, he had accepted that he was reckless. He was now aware of the need to inform a prospective employer of his GMC history because of the possible risks to patient safety, understands the impact dishonesty has on the profession and knows that the public need to be able to trust doctors. Ms Maudsley also reminded the Tribunal that patients did not come to harm as a result of the misconduct and Dr Tavakoli was the only person who was impacted by the events.

114. Ms Maudsley told the Tribunal that the investigation had been protracted and it had now been four and a half years since the incident, during which time Dr Tavakoli had continued working in the UK, and there had been no concerns that his misconduct had been repeated. She also reminded the Tribunal of the evidence it had seen of Dr Tavakoli updating the GMC and employers about his investigations.

115. Ms Maudsley submitted that Dr Tavakoli's dishonesty was at the lower end of the range in terms of severity because it was a one-off incident, there had been no financial gain

and he had not sought to cover anything up. She further submitted that the testimonial evidence showed that Dr Tavakoli is a trustworthy and competent doctor. He has attempted to remedy his misconduct by completing a probity course in May 2023. In addition, Dr Tavakoli has reflected upon his actions, as set out in his reflective statement, where he had expressed remorse and regret. Ms Maudsley submitted that this case had been a salutary lesson and Dr Tavakoli was anxious not to repeat his actions.

116. Ms Maudsley accepted that the Tribunal would need to find exceptional circumstances in order to take no action in this case. She highlighted that conditions were appropriate where a doctor has insight and submitted that Dr Tavakoli did have insight and had made efforts to remediate. She said that Dr Tavakoli would be happy to comply with conditions but acknowledged that it is difficult to formulate conditions to adequately address allegations of dishonesty.

117. Ms Maudsley submitted that a period of suspension could be imposed given Dr Tavakoli's insight, remorse, attempted remediation and lack of repetition. She submitted that if the Tribunal saw fit to impose an order of suspension, it would provide time for Dr Tavakoli to further reflect on his actions but should be for as short a time as possible because of the public interest in retaining a good doctor in the profession. In relation to erasure, Ms Maudsley agreed that not every act of dishonesty inevitably leads to erasure and this was one of those cases where erasure would be disproportionate, given Dr Tavakoli's insight, lack of repetition and remorse.

The Tribunal's Determination on Sanction

118. The Tribunal's decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgement.

119. The Tribunal noted that the main purpose of imposing a sanction is to protect the public. Its purpose is not to punish, although a sanction may have a punitive effect. The Tribunal also considered proportionality by weighing the public interest against the interests of the doctor.

120. The Tribunal was mindful that the reputation of the profession is more important than that of any individual doctor.

121. The Tribunal bore in mind the overarching objective set out in section 1(1A) and 1(1b) of the Medical Act 1983, as amended, and that the public interest should be at the forefront of the Tribunal's mind during its deliberations. This includes not only a suitable

doctor's return to safe practice, but also the wider public interest in protecting patients, maintaining confidence in the profession and declaring and upholding proper standards of conduct and behaviour.

122. The Tribunal had regard to the SG and that it should consider the least restrictive sanction first, before moving on to consider the other available sanctions in ascending order of severity.

123. In reaching its decision the Tribunal took account of mitigating and aggravating features in the case and weighed them with the SG and the statutory overarching objective.

Aggravating and Mitigating factors

124. The Tribunal considered the following to be aggravating factors in this case:

- Dr Tavakoli received a prior warning for very similar misconduct, which was still active at the time of the events in question.
- The Tribunal found at the impairment stage that Dr Tavakoli had limited insight into his misconduct.
- The Tribunal considered that Dr Tavakoli's efforts to remediate only began shortly before the hearing and lacked detail. It considered that Dr Tavakoli had sufficient opportunity to reflect on the impact of his actions.

125. The Tribunal considered the following to be mitigating factors in this case:

- The significant length of time that had elapsed since the events in question with no further repetition or concerns raised about Dr Tavakoli's conduct.
- This was a one-off incident; whilst two questions were dishonestly completed by Dr Tavakoli, it was in the course of completing one application form.
- Dr Tavakoli expressed remorse for his actions in his reflective statement.
- The Tribunal considered that Dr Tavakoli's efforts to remediate should be taken into account, although these efforts were limited and only began shortly before the hearing.
- The Tribunal had before it three positive testimonials for Dr Tavakoli, which spoke of him being a competent clinician.

No action

126. The Tribunal began by considering if it would be appropriate to take no action in this case. The Tribunal bore in mind paragraphs 68-70 of the SG, which highlight that taking no action following a finding of impairment would only be appropriate in exceptional circumstances. It noted that neither Counsel had identified any exceptional circumstances that would justify taking no action and it was not able to identify any for itself. In addition, The Tribunal determined that, in view of the serious nature of the Tribunal's findings on impairment, it would be neither sufficient, proportionate nor in the public interest to conclude this case by taking no action. Therefore, the Tribunal determined that it would not be appropriate to take no action in this case.

Conditions

127. The Tribunal then went on to consider whether imposing conditions on Dr Tavakoli's registration would be an appropriate and proportionate sanction in this case.

128. The Tribunal was mindful of paragraph 85 of the SG, which sets out that *'Conditions should be appropriate, proportionate, workable and measurable.'* Further, paragraph 81 of the SG states that conditions might be most appropriate in cases involving the doctor's health or issues around the doctor's performance, neither of which are present in this case. The Tribunal was again mindful that neither Counsel had submitted that an order of conditions was the appropriate sanction, nor had suggested how any conditions could be workable.

129. The Tribunal agreed with Ms Fordham's submission that this case did not fit the criteria for conditions set out above nor could it formulate a set of conditions to adequately address the concerns of the case. Further, conditions would not adequately address the overarching objective, including the need to promote and maintain public confidence in the medical profession and uphold proper professional standards and conduct for the members of the profession. Therefore, the tribunal determined that an order of conditions was not appropriate in this case.

Suspension

130. The Tribunal then went on to consider suspension, which is dealt with at paragraphs 91-106 and the paragraphs on dishonesty, set out at 120-128 of the SG. In addition to paragraph 124, as set out by Ms Fordham, the most relevant of these paragraphs are:

> '*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.

…

125 Examples of dishonesty in professional practice could include:

…

d inaccurate or misleading information on a CV

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.'

131. The Tribunal was also mindful of its previous findings that Dr Tavakoli had breached paragraph 71 of GMP:

'71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents.[22] You must make sure that any documents you write or sign are not false or misleading.

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

d You must not deliberately leave out relevant information.'

132. The Tribunal had regard to paragraph 91 of the SG, which states that suspension has a deterrent effect and can be used to send out a signal to the doctor, profession and public about what is regarded as behaviour unbefitting of a registered doctor. The Tribunal took into account paragraph 92 of the SG:

> *"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)."*

133. In relation to paragraph 97(e) of the SG, this was not a case where remediation was unlikely to be successful. Dr Tavakoli had started to remediate, however he had further

work to do in this regard, as set out in the Tribunal's determination on impairment. The Tribunal reminded itself of paragraph 97(f) of the SG and considered that there had been no repetition of the concerns during the four and half years since the incident. The Tribunal considered that Dr Tavakoli's actions were in respect of a one-off application and were not persistent, he had not sought to conceal them and had not made any personal gain from them. It also considered that Dr Tavakoli was a competent doctor and was mindful of the public interest in keeping a capable doctor on the register.

134. The Tribunal determined that the criteria for the imposition of suspension, set out above, was applicable in this case. A period of suspension would appropriately mark the seriousness with which the Tribunal viewed Dr Tavakoli's misconduct, sending out a clear message to the public and the profession, that such conduct was not acceptable. It did not consider it to be in the public interest to erase an otherwise competent doctor in the specific circumstances of this case. Although Dr Tavakoli's behaviour was serious, it was not such that it was fundamentally incompatible with continued registration as a doctor and erasure would be disproportionate. Accordingly, the Tribunal concluded that a period of suspension was the appropriate and proportionate sanction in this case and determined to suspend Dr Tavakoli's registration.

135. The Tribunal then went on to consider the length of such an order.

136. The Tribunal considered that the order of suspension should be long enough to allow Dr Tavakoli to further reflect, to develop his insight into the drivers of his behaviour and to further remediate his actions. It also reminded itself that Dr Tavakoli had a live warning at the time of the incident for similar conduct and that this increases the seriousness of his misconduct.

137. The Tribunal was also mindful of its findings on the risk of repetition and the seriousness of the misconduct. It was also mindful of the principle of proportionality and the impact upon Dr Tavakoli of the sanction. The Tribunal determined that a period of 9 months would be an appropriate and proportionate length of suspension in all of the circumstances. In the view of the Tribunal, this period would be the minimum length of suspension sufficient to address the seriousness of Dr Tavakoli's misconduct, uphold standards and maintain public confidence in the profession and allow Dr Tavakoli sufficient time to fully remediate and develop his insight further. Accordingly, the Tribunal determined to suspend Dr Tavakoli's registration for a period of 9 months.

138. The Tribunal determined to direct a review of Dr Tavakoli's case. A review hearing will convene shortly before the end of the period of suspension unless an early review is

sought. The onus will be on Dr Tavakoli to demonstrate how his insight has developed into the drivers of his behaviour and the specific impact of his actions. It therefore may assist the reviewing Tribunal if Dr Tavakoli provided detailed written reflections, including on the drivers of his dishonesty and how he would act if he found himself in similar circumstances in the future, with more specific insight in relation to his probity. Dr Tavakoli will also be able to provide any other information that he considers will assist.

Determination on Immediate Order - 12/06/2023

139. Having determined that Dr Tavakoli's registration should be suspended for a period of nine months, the Tribunal considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Tavakoli's registration should be subject to an immediate order.

Submissions

140. On behalf of the GMC, Ms Fordham submitted that there were no patient safety concerns in this case and, as such, the GMC did not seek an immediate order.

141. On behalf of Dr Tavakoli, Ms Maudsley referred the Tribunal to paragraphs 172-178 of the SG, which deal with immediate orders. She submitted that to impose an immediate order, the Tribunal must be satisfied that it is necessary to protect members of the public, is otherwise in the public interest or is in Dr Tavakoli's best interests. She submitted that none of these factors were true in this case and that public confidence would not be harmed by allowing Dr Tavakoli to practise during the appeal period.

The Tribunal's Determination

142. The Tribunal took into account the SG, as referred to by Ms Maudsley, including the following paragraphs, which state:

> '172 *The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor…*
>
> 173 *An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical*

care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'

143. The Tribunal determined that there are no clinical concerns in this case and therefore Dr Tavakoli does not pose a risk to patient safety.

144. The Tribunal then considered whether immediate action must be taken to promote and maintain public confidence in the medical profession. The Tribunal determined that the public interest did not require it to impose an immediate order on Dr Tavakoli's registration because public confidence will be maintained by the substantive order that the Tribunal has made.

145. This means that Dr Tavakoli's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served, unless he lodges an appeal. If Dr Tavakoli does lodge an appeal, he will remain free to practise unrestricted until the outcome of any appeal is known.

146. There is no IOT order to revoke.

147. This concludes the case.