PUBLIC RECORD

Dates: 29/02/2024 - 04/03/2024

Medical Practitioner's name:	Dr Benjamin SESSA
GMC reference number:	4438407
Primary medical qualification:	MB BS 1997 University of London

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

Summary of outcome

Suspension, 12 months.

Tribunal:

Legally Qualified Chair	Miss Gillian Temple-Bone
Medical Tribunal Member:	Dr Suzanne Joels
Medical Tribunal Member:	Mr Julian Williams

Tribunal Clerk:	Mr Joel Taylor-Garratt

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Stephen Brassington, Counsel, instructed by MDDUS
GMC Representative:	Mr Alan Taylor, 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 and Impairment - 01/03/2024

Background

1. Dr Sessa qualified in 1997 and, prior to the events which are the subject of the hearing, worked as a consultant psychiatrist in a number of NHS services including CAMHS. At the time of the events Dr Sessa was practising as a consultant psychiatrist in a number of roles and also in research. He was working: for a telemedicine company, Psychiatry UK; as a consultant addictions psychiatrist, AddAction; as a consultant psychiatrist in 'My Access Clinics' a medical cannabis prescribing service, and at Awakn Life Sciences Corporation. Dr Sessa was additionally Chief Medical Officer and then Lead Psychiatrist Bristol and Head of Psychedelic Medicine at Awakn Life Sciences, the Principal Investigator in an alcoholism clinical trial, and Lead Therapist in a clinical trial for depression. Throughout the time of these events, Dr Sessa was also working in a private capacity providing 1:1 psychiatric management through Mandala Therapy Ltd, which subsequently became Dr Ben Sessa Ltd.

2. The allegation that has led to Dr Sessa's hearing can be summarised as engaging in a sexual relationship with Patient A, who had previously been a patient of Dr Sessa's and who was vulnerable due to a variety of mental health conditions, of which Dr Sessa was aware. It is further alleged that Dr Sessa consulted with Patient A in a pub, whilst she was drinking alcohol and also that he discharged Patient A from his care in order to pursue a sexual and/or emotional relationship with her.

3. The initial concerns were raised with the GMC on 10 November 2022 by Mr B.

The Allegation and the Doctor's Response

4. The Allegation made against Dr Sessa is as follows:

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

   1. Between January 2019 and March 2021, you had a doctor patient relationship with Patient A in the course of which you provided care and treatment to Patient A.
   Admitted and found proved.

2. On 27 August 2020 you consulted with Patient A:
   a. at a pub; Admitted and found proved.
   b. whilst she was drinking alcohol. Admitted and found proved.

3. On 31 March 2021 you discharged Patient A from your care in order to pursue a sexual and/or emotional relationship with her. Admitted and found proved.

4. Between in or around July 2021 and February 2022 you engaged in a sexual relationship with Patient A. Admitted and found proved.

5. At the time of your actions as described in paragraphs 2-4, you knew that Patient A was vulnerable by reason of the matters set out in Schedule 1. Admitted 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.

The Admitted Facts

5. At the outset of these proceedings, through his counsel, Mr Brassington, Dr Sessa made admissions to the entirety of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('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.

6. The Tribunal now has to decide, in accordance with Rule 17(2)(l) of the Rules, whether, on the basis of the facts which it has found proved as set out before, Dr Sessa's fitness to practise is impaired by reason of misconduct.

The Evidence

7. Dr Sessa provided his own witness statement, dated 11 December 2023 and also gave oral evidence at the hearing.

8. In his evidence, Dr Sessa told the Tribunal that Patient A had effectively been discharged from his care in August 2020 and that he knew of her psychiatric history, including self-harm and deliberate overdoses, but said that he was not aware until hearing it during the GMC's opening that Patient A had attempted to take her own life during the course of their friendship/relationship. He told the Tribunal that Patient A had contacted him anonymously on Twitter in February 2021 and that after around 5 weeks of message communication he suggested that they meet. It was at this point that Patient A revealed herself to Dr Sessa.

9. Dr Sessa told the Tribunal that he consulted the GMC's guidance on relationships with patients, as well as with his indemnity provider, the MDDUS. He said that, although the guidance regarding current patients was crystal clear, it was less clear regarding former patients. Dr Sessa said that *'my heart overtook my head'*, that he cherry picked advice from MDDUS and interpreted the GMC guidance to justify him pursuing, at that time, a friendship with Patient A. Dr Sessa told the Tribunal that, despite objections from Patient A, he held a consultation with her in March 2021 to formally discharge her as his patient, which he described as a flawed appointment and an *'irritating complication'*, but that he thought at the time that this was the right thing to do.

10. Throughout his evidence, Dr Sessa repeated that he had made mistakes and had exercised poor judgement regarding Patient A. He said that, despite knowing her previous history, when he met Patient A in March 2021 and throughout their subsequent relationship, she gave no indication that she was still struggling with her previous health problems and appeared to be functioning well, strong, warm and stable. Dr Sessa said that, in March 2021, Patient A had not been his patient for seven months, which he had wrongly decided was sufficient time for their relationship to be on the *'right side of the guidelines'*.

11. Dr Sessa told the Tribunal that his judgement regarding Patient A had been wrong, that he wanted her to be well so he could pursue a relationship with her, so he therefore determined that she was well. He acknowledged that, as Patient A's former treating psychiatrist, there was *'a gross power imbalance in play, no matter how many times I said otherwise.'* He admitted that, by definition, he had exploited Patient A and abused his position, but that this was never a wilful attempt to exploit her. Dr Sessa told the Tribunal that Patient A was very persuasive and tried to convince him that their relationship was acceptable but that she wanted to tell friends that they had met on Twitter, not that Dr Sessa had been her doctor. He suggested that Patient A may have found it containing and felt safe by being in a relationship with her former psychiatrist.

12. Regarding the consultation in a pub on 20 August 2020, Dr Sessa said that this was not an ideal choice of location but, at the time, options were very limited due to Covid-19. He said that the pub was a location known to both him and Patient A, that very few places were open and that it was raining heavily, therefore precluding meeting outside. Dr Sessa said that Patient A was already drinking one glass of wine before he arrived but did not appear intoxicated. He told the Tribunal that, with hindsight, he should have terminated the appointment immediately. However, he said that he made a judgement call that, on balance, it would be a greater loss to Patient A to cancel the appointment than to proceed. Dr Sessa told the Tribunal that he recognised that this was the wrong choice.

13. Dr Sessa told the Tribunal that over the course of three years he had lost his *'mother, father, my business and my partner.'* He outlined his efforts at remediation and told the Tribunal that *'grief is a lifelong process'*, which he will continue to live with and work through but that this did not mean that his fitness to practise remained impaired. He told

the Tribunal that he sincerely regretted his actions and admitted his mistakes. He said he had suffered extreme distress and remorse at the loss of Patient A and that his part in the last year of her life was *'undoubtedly the greatest personal and professional mistake of my career.'* Dr Sessa told the Tribunal that he saw no possible chance of any repetition of his conduct and that he considered *'this chapter a tragic blip in my otherwise excellent career.'*

Documentary Evidence

14. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to the Record of Inquest into Patient A's death, the GP's report that was provided to the Inquest and evidence of Dr Sessa's efforts at remediation.

15. Additionally, the Tribunal received Dr Sessa's reflective statement, dated 1 February 2024, and a bundle of 360 feedback, testimonials, patient feedback and certificates from attendance at courses for the purpose of remediation.

Submissions

16. On behalf of the GMC, Mr Taylor, Counsel, submitted that all three limbs of the overarching objective applied in this case. He set out that impairment is a two stage process where the Tribunal must first determine if Dr Sessa's actions amounted to misconduct and then if his fitness to practise is currently impaired by reason of that misconduct. He submitted that, per the case of *Roylance v. The General Medical Council (Medical Act 1983) [1999]* misconduct is a word of general effect and a matter of the Tribunal's judgement.

17. Mr Taylor referred the Tribunal to the case of *Remedy UK Ltd, R (on the application of) v The General Medical Council [2010] EWHC 1245 (Admin):*

> *'Misconduct is of two principal kinds. First, it may involve sufficiently serious misconduct in the exercise of professional practice such that it can properly be described as misconduct going to fitness to practise. Second, it can involve conduct of a morally culpable or otherwise disgraceful kind which may, and often will, occur outwith the course of professional practice itself, but which brings disgrace upon the doctor and thereby prejudices the reputation of the profession.'*

18. Mr Taylor submitted that both of these kinds of misconduct are present in this case. He submitted that Dr Sessa's conduct was in the exercise of his professional practice in that he discharged Patient A to pursue a relationship with her and that he consulted with her in a pub, whilst she was drinking alcohol. He said that this was particularly serious in light of Patient A's problems with alcohol. Mr Taylor also submitted that Dr Sessa engaging in a sexual relationship with a former patient would undoubtedly be seen as deplorable by fellow professionals.

19. Mr Taylor submitted that Dr Sessa had accepted that he abused his position as Patient A's psychiatrist. He said that this clearly amounted to serious professional misconduct.

20. Mr Taylor said that impairment was also a matter for the Tribunal's judgement. He referred the Tribunal to the cases of *General Medical Council v Meadow [2006] EWCA Civ 1390* and *Cohen v General Medical Council [2008] EWHC 581 (Admin)*, which he submitted set out that the purpose of the Tribunal is not to punish a practitioner but to protect the public and that the Tribunal must determine if Dr Sessa's conduct can be remedied, if it has been remediated and if it is likely to be repeated in the future.

21. Mr Taylor set out that the test for impairment is Dame Janet Smith's test in The Fifth Shipman Report, cited in *CHRE v NMC and P Grant [2011] EWHC 927 (Admin)*, the first three limbs of which were relevant in this case:

> *'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.'*

22. Mr Taylor submitted that there are some forms of misconduct that are so serious that the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made. Mr Taylor submitted that public confidence in the profession would be undermined if no impairment were found in such a serious case and with so tragic an outcome.

23. Mr Taylor submitted that Dr Sessa's misconduct does not lend itself to easy remediation, such as in cases of professional performance, so his efforts at remediation should carry less weight in the Tribunal's considerations. However, Mr Taylor acknowledged that Dr Sessa had completed various appropriate courses, had made full admissions and had expressed shock at his own behaviour.

24. Mr Taylor submitted that the Tribunal should consider paragraph 53 of Good Medical Practice (2014) ('GMP') and the guidance referred to therein, Maintaining a professional boundary between you and your patient ('The Guidance'). In particular, Mr Taylor referred the Tribunal to paragraphs 7 – 13 of The Guidance and submitted that Dr Sessa had breached these paragraphs.

25. Mr Taylor submitted that Dr Sessa's actions in breaching these paragraphs of The Guidance were a very serious departure from the standards of conduct expected of a doctor and that they required a finding of impairment.

26. On behalf of Dr Sessa, Mr Brassington, Counsel, submitted that there was little disagreement with Mr Taylor's submissions. He submitted that Dr Sessa's actions unquestionably amounted to misconduct and that his fitness to practise is therefore impaired.

27. Mr Brassington submitted that Dr Sessa had full insight into his wrongdoing, having made full admissions from the outset of proceedings that what he did was entirely inappropriate. Mr Brassington submitted that Dr Sessa had never sought to avoid responsibility for his breaches of GMP or The Guidance and had been the primary source of the material before the Tribunal.

28. Mr Brassington submitted that he made no suggestion that Dr Sessa's fitness to practise was not impaired on the basis of the public interest. He said that Dr Sessa had previously acted in a way that put Patient A at risk of harm, brought the profession into disrepute and breached a fundamental tenet of the profession.

29. Mr Brassington submitted that Dr Sessa's conduct is remediable, despite it being in the category of behaviour that is more difficult to remediate. He submitted that Dr Sessa's reflective statement is particularly detailed and open, is brutally honest and self-critical. He submitted that Dr Sessa had analysed the decision making that was flawed. He convinced himself that his decision that he could pursue Patient A was a correct one because he had allowed his heart to rule his head. Mr Brassington submitted that Dr Sessa's remediation efforts were extraordinary and a proper and fair analysis would lead to the conclusion that he has remedied his deficiencies.

30. Mr Brassington submitted that, in the context of his CPD and reflections, it was a *'vanishing possibility'* that Dr Sessa would repeat his misconduct in the future. He reminded the Tribunal that ultimately, because of his own actions, Dr Sessa had lost his partner to suicide. Mr Brassington reminded the Tribunal that there was no suggestion from the GMC that Patient A's death was as a result of Dr Sessa's conduct.

31. Mr Brassington submitted that Dr Sessa did not seek to underplay the mistakes that he had made and took full responsibility for them all, having been honest and open throughout the hearing and offering repeated apologies. He submitted that the public would expect a finding that Dr Sessa's fitness to practise is currently impaired, but that this was because of his previous actions, not because of any future risk.

The Relevant Legal Principles

32. 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.

33. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct, and then whether the finding of that misconduct, which was serious, could lead to a finding of impairment.

34. The Tribunal must determine whether Dr Sessa's fitness to practise is impaired today, taking into account Dr Sessa'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.

35. The Tribunal also had regard to the case of *Grant*, which set out the test above as well as:

> *'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.'*

36. The Tribunal must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.

The Tribunal's Determination on Impairment

Misconduct

37. The Tribunal considered that there were two principal areas of Dr Sessa's conduct that it must consider in relation to misconduct. Firstly, the consultation on 27 August 2020 in a pub and secondly the subject of Dr Sessa's personal relationship with Patient A.

38. Turning first to the consultation in a pub, the Tribunal considered that this clearly amounted to misconduct. It was not appropriate to hold a consultation with a patient who had problems with alcohol in a pub, particularly when she was drinking alcohol. However, the Tribunal was mindful of the circumstances at the time. August 2020 was a time of significant Covid-19 restrictions and many aspects of life, personal and professional, were being undertaken in new and sometimes less than ideal circumstances. The Tribunal bore in mind Dr Sessa's evidence that the pub was one of the few locations that were open at the time of Patient A's appointment and that the weather prevented an outdoor consultation.

39. The Tribunal determined that, whilst Dr Sessa made the wrong decision in deciding to go ahead with the consultation, this was not so serious a failing as to amount to serious professional misconduct. The Tribunal considered that, whilst other professionals may have made a different decision, they would not consider Dr Sessa's actions deplorable under the circumstances.

40. The Tribunal then went on to consider if the circumstances of Dr Sessa's relationship with Patient A amounted to misconduct.

41. The Tribunal considered that it was a fundamental tenet of the profession that a doctor should not have an emotional/sexual relationship with a patient. Forming an emotional and/or sexual relationship with a former patient, is similarly discouraged, particularly for a psychiatrist per paragraph 12 of The Guidance. The Tribunal considered that this conduct would risk patient safety, damage the reputation of the profession and lower public confidence in the profession. The Tribunal noted that Mr Brassington had acknowledged this in his submissions.

42. The Tribunal turned to consider the relevant paragraph of GMP and The Guidance. Paragraph 53 of GMP states: *'You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.'* The Guidance then expands on this point as follows:

> *'7 You must not end a professional relationship with a patient solely to pursue a personal relationship with them.*
>
> *8 Personal relationships with former patients may also be inappropriate depending on factors such as:*
>
> *a the length of time since the professional relationship ended (see paragraphs 9–10)*
> *b the nature of the previous professional relationship*
> *c whether the patient was particularly vulnerable at the time of the professional relationship, and whether they are still vulnerable (see paragraphs 11–13)*
> *…*
>
> *You must consider these issues carefully before pursuing a personal relationship with a former patient.*
>
> *9 It is not possible to specify a length of time after which it would be acceptable to begin a relationship with a former patient. However, the more recently a professional relationship with a patient ended, the less likely it is that beginning a personal relationship with that patient would be appropriate.*

10 The duration of the professional relationship may also be relevant. For example, a relationship with a former patient you treated over a number of years is more likely to be inappropriate than a relationship with a patient with whom you had a single consultation.

11 Some patients may be more vulnerable than others and the more vulnerable someone is, the more likely it is that having a relationship with them would be an abuse of power and your position as a doctor.

12 Pursuing a relationship with a former patient is more likely to be (or be seen to be) an abuse of your position if you are a psychiatrist or a paediatrician.

13 Whatever your specialty, you must not pursue a personal relationship with a former patient who is still vulnerable. If the former patient was vulnerable at the time that you treated them, but is no longer vulnerable, you should be satisfied that:

- *the patient's decisions and actions are not influenced by the previous relationship between you*
- *you are not (and could not be seen to be) abusing your professional position.'*

43. The Tribunal considered that all of these paragraphs were relevant in this case and that Dr Sessa had breached them all. The March 2021 consultation was in breach of paragraph 7, which was admitted by Dr Sessa. The Tribunal considered that 7 months was a short length of time since Patient A had been treated by Dr Sessa and that the nature of her relationship with Dr Sessa as a treating psychiatrist meant that she was particularly vulnerable, especially having made a number of attempts at self-harm, which were known to Dr Sessa.

44. The Tribunal considered that Dr Sessa's professional relationship with Patient A was recent enough that he felt the need to formally discharge her from his care. The Tribunal considered it clear that Dr Sessa arranged the appointment in March with the intention of discharging Patient A so he could pursue a relationship with her. The Tribunal also noted that he had had email contact with Patient A, in a professional capacity as recently as October 2020, in which Patient A had disclosed XXX.

45. The Tribunal noted Dr Sessa's acceptance that Patient A was vulnerable throughout their interactions on Twitter and subsequent relationship and that there was a power imbalance between them.

46. The Tribunal determined that these breaches of The Guidance amounted to serious professional misconduct of a morally culpable kind and brought the reputation of the profession into disrepute. The Tribunal determined that Dr Sessa's actions breached all three limbs of the overarching objective.

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

Impairment

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

49. The Tribunal reminded itself that Dr Sessa was Patient A's treating psychiatrist and, by virtue of this relationship, Patient A was particularly vulnerable to him. Dr Sessa had admitted to discharging Patient A so that he could pursue a relationship with her, to engaging in a sexual relationship with her between July 2021 and February 2022, to the serious power imbalance between the pair and to the fact that Patient A was at all times vulnerable due to the nature of their professional relationship and her health conditions.

50. The Tribunal first considered Dame Janet Smith's test, as set out above. It considered that Dr Sessa's actions in engaging in a sexual relationship with a former patient put Patient A at risk of harm, had brought the profession into disrepute and had breached a fundamental tenet of the profession.

51. In determining the likelihood of any repetition of Dr Sessa's misconduct, the Tribunal turned to consider his level of insight and remediation.

52. The Tribunal reminded itself of Dr Sessa's answers in response to Mr Taylor's questioning about whether the process of remediation is lifelong. Dr Sessa responded by saying:

> *'Grief is lifelong process. Over three years I lost my mother, my father, my business and my partner. This grief will always be with me. This does not mean that I am not impaired, but in continuation of exploring these issues, it will always be with me. It doesn't mean that I am impaired in my work. In anybody's eyes, grief is a lifelong process.'*

53. The Tribunal was particularly concerned that Dr Sessa had not been able to identify why he had not, as a psychiatrist, picked up on the difficulties that Patient A was experiencing, nor why he had not questioned why she approached him anonymously. Dr Sessa described Patient A in March 2021 as *'high functioning, smart, intelligent, happy, well.'* The Tribunal recalled that Patient A made attempts on her life in May and July 2021, as well as XXX in October and November 2020 all of which led to hospital admissions. XXX The Tribunal considered it surprising that Dr Sessa never queried Patient A's mental state during their relationship, given his professional expertise and previous knowledge of her mental health.

54. The Tribunal considered that Dr Sessa's reflective statement was thorough and clearly set out that he accepted his mistakes but was concerned by some of the language that he used in his oral evidence. For example, his description of the March consultation as an *'irritating complication'* and his characterisation of his relationship with Patient A as a *'blip'* and *'one isolated incident.'* The Tribunal considered that this appeared to downplay the seriousness of Dr Sessa's actions. The Tribunal found there to be a discrepancy between Dr Sessa's written reflections and some of his oral evidence.

55. In light of this, the Tribunal determined that, although Dr Sessa has shown some degree of insight, it is still developing.

56. Turning to remediation, the Tribunal considered that the extent of Dr Sessa's remediation efforts were significant and there was little more that could be expected of him in terms of CPD and training courses. However, given its determination that his insight is still developing, the Tribunal could not say that Dr Sessa's remediation is yet complete. It considered that Dr Sessa did not seem to realise that he did not use his skills as a psychiatrist to check on Patient A's wellbeing, despite her vulnerability. Instead, he saw what he wanted to enable his pursuit of a relationship with her.

57. The Tribunal considered that the impact of these events on Dr Sessa was clear and accepted that he understood it was a mistake to pursue a relationship with Patient A. The Tribunal considered that the risk of repetition is low.

58. The Tribunal therefore determined that Dr Sessa's fitness to practise is impaired on the grounds of the public interest. It accepted that the risk of repetition is low but he has not yet fully remediated his past actions, which risked patient safety, brought the profession into disrepute and breached a fundamental tenet of the profession.

59. The Tribunal considered that the public would be shocked if, in all the circumstances of the case, no finding of impairment were made. The Tribunal considered that fellow practitioners would find Dr Sessa's actions in pursuing a relationship with Patient A to be deplorable. It considered that Dr Sessa's past actions engaged all three limbs of the overarching objective.

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

Determination on Sanction - 04/03/2024

61. Having determined that Dr Sessa'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

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

Submissions

On behalf of the GMC

63. On behalf of the GMC, Mr Taylor, Counsel, submitted that the topic of sanction is one for the Tribunal's judgement but should be guided by the Sanctions Guidance (2024) ('the SG'). He said that the SG sets out that the Tribunal should consider the need to impose a sanction to uphold its legal duty to protect, promote and maintain the health and wellbeing of the public, public confidence in the profession and proper professional standards.

64. Mr Taylor submitted that, as part of its decision, the Tribunal must balance the aggravating and mitigating factors. He submitted that it was an aggravating factor in this case that Dr Sessa had abused his professional position to pursue a relationship with Patient A, who was vulnerable due to her mental health conditions. Mr Taylor also referred the Tribunal to paragraphs 56 and 145 of the SG, which says that Tribunals are likely to take more serious action where certain conduct arises in a doctor's personal life, such as inappropriate behaviour towards vulnerable adults, which he submitted applied in this case.

65. Mr Taylor also set out what he considered to be the mitigating factors in the case. He submitted that these factors must be balanced against the central aim of sanctions, namely the need to protect the public as set out in the overarching objective. He submitted that Dr Sessa had demonstrated developing insight and had done a significant amount of remedial work, but reminded the Tribunal of its previous finding that Dr Sessa's insight and remediation are not yet complete. Mr Taylor submitted that it should also be taken into mitigation that Dr Sessa had no previous finding of impairment, had apologised and had made sincere expressions of regret.

66. Mr Taylor submitted that the testimonials that had been provided were of limited weight in this case because of the nature of Dr Sessa's misconduct.

67. Mr Taylor then moved on to consider the possible sanctions available to the Tribunal. He said that the Tribunal should start with the least restrictive and then proceed upwards until reaching the sanction that was appropriate and proportionate to satisfy the overarching objective. Mr Taylor submitted that it would not be appropriate or proportionate to take no action in this case, nor to impose an order of conditions. He said that the gravity of the case required action to be taken but that an order of conditions would not be proportionate, nor would it be possible to formulate conditions to address the misconduct in this case.

68. Mr Taylor said that the realistic choice in this case was between suspension and erasure and submitted that the most appropriate sanction was a period of suspension. He referred the Tribunal to paragraphs 91 – 93 of the SG, which deal with suspension:

> *'91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*
>
> *92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*
>
> *93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions (see paragraphs 24–49).'*

69. Mr Taylor submitted that Dr Sessa had made an acknowledgement of fault and the Tribunal had determined the risk of repetition to be low. Mr Taylor submitted that this meant that paragraph 93 applied in this case.

70. Mr Taylor also referred the Tribunal to paragraph 97 of the SG, which sets out possible factors that indicate suspension is the appropriate sanction. He said that the following paragraphs applied in this case:

> *'97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*
>
> *a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.*
>
> *…*

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

f No evidence of repetition of similar behaviour since incident.

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

71. Mr Taylor submitted the facts of this case put it on the cusp of suspension and erasure. He said that, although there were paragraphs of the SG dealing with erasure that could be said to apply, these must be balanced against those set out above that deal with suspension. He said that these paragraphs, 107, 108, 109d d 107e, 107i could be said to apply. However he indicated that if a period of suspension meets the seriousness of the case, then it is the most appropriate sanction in this case

72. Turning to the length of such a suspension, Mr Taylor submitted that a suspension at the upper end of the scale is necessary to address the misconduct in this case. Mr Taylor referred the Tribunal to paragraph 102 of the SG, which deals with length of suspension, and submitted that the points of particular relevance were those that refer to the extent to which the doctor departed from GMP. He submitted that a period of suspension should be at the upper end because of the seriousness and gravity of the misconduct in this case.

73. Mr Taylor reminded the Tribunal that Patient A was vulnerable due to her medical conditions and that this and paragraph 146 of the SG indicated the seriousness of the case and the need for any period of suspension to be a lengthy one:

'146 Using their professional position to pursue a sexual or improper emotional relationship with a vulnerable patient is an aggravating factor that increases the gravity of the concern and is likely to require more serious action against a doctor.'

74. Mr Taylor repeated that this case was on the cusp of erasure but submitted that, in all the circumstances of the case, a lengthy period of suspension was the most appropriate sanction.

<u>On behalf of Dr Sessa</u>

75. On behalf of Dr Sessa, Mr Brassington, Counsel, first made comments in response to the Tribunal's determination on impairment. He reminded the Tribunal that Dr Sessa did not know the identity of Patient A when she contacted him on Twitter under the pseudonym 'XXX'. He submitted that Dr Sessa accepted that he had used a poor choice of word when he had described the incident with Patient A as a *'blip'* but that this was not an inappropriate characterisation. Mr Brassington submitted that this incident was

contained to Patient A over a career of 25 years. He invited the Tribunal to look at Dr Sessa's written reflections and his behaviour in the intervening time as a demonstration of his thoughts about the event.

76. Mr Brassington also submitted that, whilst Dr Sessa accepted that he saw what he wanted to see in March 2021 when he discharged Patient A, he was troubled by the suggestion that he didn't use his psychiatric skills to assess Patient A throughout their relationship. Mr Brassington submitted that Dr Sessa could not and should not have used his skills to assess Patient A during their relationship as this would have been a different kind of breach of GMP. Mr Brassington said that if the Tribunal was concerned that Dr Sessa did not pick up of signs of concern from Patient A during their relationship, it was because she was masking them effectively. He submitted that no-one else had identified a cause for concern, including her GP whom she had been seen a few days before her death.

77. Mr Brassington urged the Tribunal to be cautious in considering that Dr Sessa did not use his psychiatric skills throughout the relationship with Patient A but reiterated that Dr Sessa accepted that his fitness to practise was impaired.

78. Mr Brassington then moved on to consider the issue of sanction and submitted that the purpose of sanction is to protect the public, not to be punitive. He said that the principle of proportionality meant that the Tribunal must do no more than is necessary to achieve this purpose, any more would equate to punishment. Mr Brassington submitted that he agreed with Mr Taylor that a lengthy period of suspension would be the most appropriate sanction in this case.

79. Mr Brassington reminded the Tribunal of the circumstances of the case, that Dr Sessa met 'XXX' anonymously online and developed a friendship before she revealed herself to be Patient A, at which point he made *'a series of catastrophically poor judgements.'* He said that this was not a case of a doctor pursuing sexual gratification, but rather one of a couple falling in love and pursuing a full relationship together. It was not a fleeting interaction with a doctor seeking sexual gratification. He also reminded the Tribunal that it was a matter of fact that Patient A made the initial contact with Dr Sessa, although he submitted that this did not diminish the responsibility that Dr Sessa had to do the right thing.

80. Mr Brassington submitted as mitigating factors the fact that Dr Sessa was of previously good character and had a long and exemplary career. He also submitted that Dr Sessa had completed an impressive amount of remediation, even if the Tribunal considered it to not yet be complete. Mr Brassington submitted that Dr Sessa had shown great sympathy and understanding through his reflective statement, had made full admissions and was the source of almost all the material that comprised the GMC's case.

81. Turning to aggravating factors, Mr Brassington submitted that there was no predatory behaviour in this case and the Tribunal should not include that as an aggravating factor,

nor was there a suggestion of any inappropriate behaviour towards Patient A, notwithstanding the inappropriateness of their relationship. Mr Brassington acknowledged that Dr Sessa had made a serious departure from GMP but submitted that it was not impossible for him to remediate his failings.

82. Mr Brassington submitted that he agreed with Mr Taylor that a lengthy period of suspension would be required to meet the seriousness of the case but said that more *'draconian'* action was not necessary. He submitted that Dr Sessa did not use his position to pursue a relationship with Patient A and their professional relationship had ended seven months before meeting her in March 2021. Mr Brassington submitted that there was no suggestion that Dr Sessa pursued Patient A while he was her treating clinician, which set this case aside from one involving predatory behaviour.

83. Mr Brassington submitted that a reasonable member of the public, being apprised of all the circumstances of the case, would not believe erasure to be necessary to protect patients or uphold proper professional standards.

The Tribunal's Determination on Sanction

84. The decision as to the appropriate sanction to impose, if any, is a matter for the Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken into account the SG and the statutory overarching objective.

85. The Tribunal bore in mind that the reason for imposing sanctions is to uphold the overarching objective to protect the public. Sanctions are not imposed to punish doctors, although they may have a punitive effect.

86. The Tribunal took a proportionate approach, balancing the interests of Dr Sessa with the public interest. It bore in mind that the reputation of the profession as a whole is more important than the interests of any individual doctor.

87. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal exercising its own judgement. It must consider the least restrictive sanction first and then, if necessary, consider the other sanctions, taking into account the evidence and submissions that have been read and heard. The Tribunal must consider its determination on impairment and take those matters into account during its deliberations on sanction.

88. The Tribunal must consider any relevant mitigating and aggravating factors and address them within the context of the determination.

Aggravating and mitigating factors

89. The Tribunal began by considering the aggravating and mitigating factors in the case. It considered it an aggravating factor that Patient A was, at all times, vulnerable due to her mental health conditions. It also considered it an aggravating factor that Dr Sessa was

Patient A's former psychiatrist, meaning that there was a gross power imbalance between the two, with Dr Sessa having intimate knowledge of Patient A's vulnerabilities. The Tribunal also considered it an aggravating factor that, when Dr Sessa became aware of the identity of 'XXX', it had only been a short time since he had a professional relationship with Patient A. His decision to develop a relationship with his former patient was an abuse of his professional position.

90. The Tribunal considered Dr Sessa's comprehensive reflective piece to be a mitigating factor in this case, which included his acknowledgement of fault and his apology. The Tribunal also considered it a mitigating factor that Dr Sessa had fully cooperated with proceedings, had made full admissions at an early stage and that there had been no previous or subsequent regulatory concerns.

91. The Tribunal was impressed by the breadth and depth of Dr Sessa's reflective statement and his attendance on courses relevant to his remediation efforts. None the less, as set out in the impairment determination, the Tribunal considered Dr Sessa's insight to still be developing.

92. In response to Mr Brassington's comments on its impairment determination, the Tribunal acknowledged that there were discrepancies in Dr Sessa's oral evidence as distinct from the content of his reflective statement. His phrase that this was *'a blip in an otherwise excellent career'* was unfortunate. This matter, although concerning a single patient, who initiated the relationship anonymously, did continue from April 2021 to February 2022. This 'single issue' arises from behaviour that took place over more than nine months. The Tribunal acknowledged that Dr Sessa did not exhibit predatory behaviour, did not pursue Patient A after an email exchange in October 2020, and that their relationship arose from Patient A's use of anonymity to message Dr Sessa on Twitter. Dr Sessa's evidence was that, throughout that messaging, he developed a bond of friendship with 'XXX' not knowing that she was in fact Patient A.

93. The Tribunal then went on to consider what sanction, if any, it should impose.

No action

94. The Tribunal first considered whether it would be appropriate to take no action. It accepted Mr Taylor's submission that there would need to be exceptional circumstances in the case to justify taking no action. The Tribunal considered that there were no such exceptional circumstances in this case and so determined that it could not take no action.

Conditions

95. The Tribunal reminded itself that neither party had submitted that an order of conditions would be appropriate in this case. It considered paragraph 81 of the SG:

'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.'

96. The Tribunal considered that none of these factors applied in this case. It also considered that the seriousness of the case meant that conditions would not be proportionate. As such, the Tribunal determined that an order of conditions would not be appropriate or proportionate in this case.

Suspension

97. The Tribunal then went on to consider an order of suspension, noting that both parties had submitted that this was the appropriate sanction in this case. The Tribunal considered all the relevant paragraphs of the SG.

98. The Tribunal balanced the mitigating and aggravating factors in the case with the need to satisfy the statutory overarching objective to protect the public. It reminded itself that Patient A was vulnerable and Dr Sessa had been her treating psychiatrist, a position which created a significant power imbalance. The Tribunal accepted that Dr Sessa had not engaged in predatory behaviour and it was satisfied that the risk of him repeating his misconduct was low. It also reminded itself of Dr Sessa's apology and deep reflections.

99. The Tribunal considered this a very serious case, but accepted that Dr Sessa did not set out to pursue a relationship with his former patient. He developed a bond without knowing who 'XXX' was and then made a series of very poor decisions.

Erasure

100. The Tribunal then considered whether, given the seriousness of Dr Sessa's abuse of his professional position with a former patient, who was vulnerable because of her health conditions, erasure was necessary to protect, promote and maintain public confidence in the profession and the upholding of proper professional standards.

101. Whilst balancing against the circumstances of the case, the Tribunal considered paragraph 109 of the SG, which sets out possible factors that may indicate erasure is the appropriate sanction, and identified the following as possibly relevant in this case:

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

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

d Abuse of position/trust (see Good medical practice, paragraph 81: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession').

e Violation of a patient's rights/exploiting vulnerable people (see Good medical practice, paragraph 41 on children and young people, paragraph 87 regarding expressing personal beliefs and paragraph 90 regarding information about services).'

102. The Tribunal also had regard to paragraph 142 of the SG. The Tribunal considered that this indicated the trust in the profession that had been harmed by Dr Sessa's actions:

'142 Trust is the foundation of the doctor-patient partnership. Doctors' duties are set out in paragraph 86 of Good medical practice and in the more detailed guidance Maintaining personal and professional boundaries and Ending your professional relationship with a patient.'

103. The Tribunal had regard to principle of proportionality and whether the protection of public confidence and upholding standards of the profession required erasure or whether a lesser sanction, such as suspension, would be a more appropriate way of achieving the overarching objective in this case. The Tribunal considered that a member of the public, fully apprised of the circumstances of the case, would not expect an order of erasure in this case.

104. The Tribunal considered that an order of suspension would have a deterrent effect on members of the profession, sending a signal to the public and the profession about what is regarded as behaviour unbefitting a doctor. In all the circumstances, an order of suspension could be an appropriate response to this misconduct. The Tribunal considered this to be the case because Dr Sessa had acknowledged his mistake, had made efforts to remediate and the Tribunal was satisfied that the risk of repetition was low.

105. The Tribunal considered that Dr Sessa's actions were a serious breach of GMP but his misconduct was not fundamentally incompatible with continued registration. It had seen no evidence that remediation was unlikely to succeed and Dr Sessa had already completed a number of relevant courses. There was no evidence of repetition and no prior concerns about Dr Sessa's conduct. The Tribunal was satisfied that Dr Sessa had developing insight and did not pose a significant risk of repeating his behaviour.

106. Accordingly, the Tribunal determined that an order of suspension was the most appropriate in this case.

Length of order

107. Turning to the length of such an order, the Tribunal noted Mr Taylor's submission that a lengthy period would be required to satisfy the seriousness of the case, which was agreed to in full by Mr Brassington. In light of these submissions, and because of the seriousness of Dr Sessa's misconduct and to reflect the gravity of the concerns, the Tribunal determined to impose a suspension lasting 12 months.

108. The Tribunal determined not to direct a review prior to the expiry of the suspension. This was because the Tribunal could see no merit in Dr Sessa attending further remediation courses. It considered that the time during the suspension, combined with Dr Sessa's continuing efforts to understand events, will assist in his development of insight. Further, the Tribunal considered that the primary reason for this suspension was to reflect the overarching objective, in particular the need to maintain public confidence in the profession.

Determination on Immediate Order - 04/03/2024

109. Having determined that Dr Sessa's registration should be suspended for a period of 12 months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Sessa's registration should be subject to an immediate order.

Submissions

110. On behalf of the GMC, Mr Taylor submitted that an immediate order was not necessary in this case. He referred the Tribunal to the relevant paragraphs of the SG.

111. On behalf of Dr Sessa, Mr Brassington submitted that an immediate order was not necessary in this case.

The Tribunal's Determination

112. In reaching its decision, the Tribunal has exercised its own judgement, taking into account all the circumstances. The Tribunal has borne in mind the guidance given in paragraphs 172 - 178 of the SG, in particular:

> *'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of*

committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.

173 An immediate order might be particularly appropriate… where immediate action must be taken to protect public confidence in the medical profession.

…

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

113. The Tribunal considered that there were no patient safety concerns in this case. The Tribunal considered that Dr Sessa would also need time to make arrangements for any patients currently under his care, who would be put at risk of harm if an immediate order were imposed.

114. Therefore the Tribunal determined not to impose an immediate order.

115. This means that Dr Sessa'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 Sessa does lodge an appeal, he will remain free to practise unrestricted until the outcome of any appeal is known.

116. This concludes the case.