

Dates: 21/01/2019 - 24/01/2019

Medical Practitioner's name: Dr Brendan SWEENEY

GMC reference number: 6147279

Primary medical qualification: MB ChB 2006 University of Manchester

Type of case
New - Misconduct
XXX

Outcome on impairment
Impaired
XXX

Summary of outcome

Conditions, 24 months
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr Richard Tutt
Lay Tribunal Member:	Mrs Sharon Gimson
Medical Tribunal Member:	Dr Pranveer Singh

Tribunal Clerk:	Ms Sarah Ryan (21-23 January 2019) Ms Jean Gleeson (24 January 2019)
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Philip Newman, Counsel, instructed by RLB
GMC Representative:	Mr Simon Vaughan, Counsel

Attendance of Press / Public

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

Record of Determinations – Medical Practitioners Tribunal

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- 23/01/2019

FACTS

The Allegation and the Doctor's Response

1. The Allegation made against Dr Sweeney is as follows:
That being registered under the Medical Act 1983 (as amended):
 1. On 27 February 2018 at Manchester and Salford Magistrates Court, you were made the subject of an order for conditional discharge for a period of eighteen months in respect of the following:
 - a. possession of a controlled drug of class A namely cocaine contrary to section 5(1) of the Misuse of Drugs Act 1971; **Admitted and found proved**
 - b. whilst in a public place disorderly behaviour whilst drunk contrary to section 91(1) of the Criminal Justice Act 1967; **Admitted and found proved**
 - c. possession of a controlled drug of class B namely ketamine contrary to section 5(1) of the Misuse of Drugs Act 1971; **Admitted and found proved**
 - d. possession of a controlled drug of class C namely diazepam contrary to section 5(1) of the Misuse of Drugs Act 1971. **Admitted and found proved**

The Admitted Facts

2. At the outset of these proceedings, through his counsel, Mr Newman, Dr Sweeney admitted 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 the entirety of the Allegation as admitted and found proved.

IMPAIRMENT

3. 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 Sweeney's fitness to practise is impaired by reason of misconduct.
4. XXX.
5. XXX.

Record of Determinations – Medical Practitioners Tribunal

The Outcome of Applications Made during the Impairment Stage

6. The Tribunal granted the GMC's application, made pursuant to Rule 34(13) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), for Dr A to give evidence by telephone. The grounds of the GMC's application were that Dr A had work commitments which prevented him from attending the hearing in person. Additionally, his evidence was restricted to a discrete matter.

7. The Tribunal determined that there would be no detriment to its assessment of Dr A's evidence in allowing that evidence to be given over the phone. It was also satisfied that there would be no prejudice to Dr Sweeney in granting the application. Accordingly, it determined to grant the application as it was in the interests of justice to do so, pursuant to Rule 34(14) of the Rules.

Background XXX

8. On the evening of 30 October 2017, just prior to 8pm, police attended the Blue Pig pub/restaurant in Manchester city centre. They had received a report of a male who was being aggressive to staff and customers within the establishment. The male was identified as Dr Sweeney. One of the officers, PC C, observed that Dr Sweeney's eyes were glazed over and he was shouting, slurring his words and swearing at staff members. Around 20-30 members of the public were present and were reported as being visibly "shocked and shaken" by the sight. PC C was informed by a staff member that Dr Sweeney had "consumed at least 5/6 pints of beer and had been shouting about taking drugs." PC C noted that Dr Sweeney had white powder stuck to the septum area of his nose and suspected that he had used a controlled drug. Dr Sweeney was verbally abusive and physically aggressive towards the attending officers and refused to leave the premises. This continued when he was escorted to the police van. This behaviour included trying to pull his arms away, gritting his teeth, swearing and kicking the door of the police van. Dr Sweeney was cautioned and arrested for being drunk and disorderly, and replied to officers "I'm not drunk".

9. Dr Sweeney was searched whilst in custody at Longsight Police Station. He was found to be in possession of 4 'snap bags of white powder' and a blister pack of tablets. Dr Sweeney used words to the effect that the items were "Cocaine, Ketamine and Benzos". Forensic analysis revealed that these bags contained 0.19g and 0.32g of cocaine, 0.31g and 0.78g of ketamine, and 5 tablets amounting to 0.84g of diazepam. Dr Sweeney was further arrested for possession of Class A drugs.

10. A police summary of Dr Sweeney's police interview dated 31 October 2017 states the following:

Record of Determinations – Medical Practitioners Tribunal

“The defendant stated he had been drinking in Manchester and Leeds and was ‘pished’. He states he met a female in a bar. She asked him if he wanted to get ‘fucked up’ to which he agreed. He stated she left the pub and returned a few moments later with the drugs. They both took some cocaine and it blew his socks off. He states he was not working maybe got a little too intoxicated. He stated it was the first time he had taken drugs and didn’t remember anything from taking the cocaine until he woke up in a police cell the morning after.

The defendant admitted to possessing all of the controlled drugs.

He stated the cocaine and ketamine were to get high and the ‘Benzos’ were to bring him back down on the following day”

11. On 27 February 2018 at Manchester and Salford Magistrates’ Court, Dr Sweeney pleaded guilty to all four charges on a full facts basis and was made subject to the conditional discharge noted above.

XXX

12. XXX.

XXX

13. XXX.

14. XXX.

15. XXX.

16. X.

XXX

17. XXX.

18. XXX.

19. XXX.

20. XXX.

21. XXX.

22. XXX.

23. XXX.

Record of Determinations – Medical Practitioners Tribunal

24. XXX.

The evidence considered at this hearing

25. The Tribunal has taken into account all of the evidence received during the facts and impairment stage of the hearing, both oral and documentary. The documentary evidence included but was not limited to:

Documentary bundle XXX

- Email from PC B to the GMC dated 31 October 2017, advising of Dr Sweeney's arrest;
- XXX;
- XXX;
- XXX;
- Telephone note of conversation between Dr Sweeney and the GMC dated 1 November 2017, with respect to Dr Sweeney's arrest and work arrangements;
- Emails between the GMC and Dr Sweeney's Clinical Supervisor and Workplace Reporter, XXX and the Medical Director at Pennine Care NHS Foundation Trust ('the Trust'), (various dates), with respect to Dr Sweeney's work arrangement;
- Material in respect of the police investigation into Dr Sweeney and court summons; and
- Memorandum of Conviction from Manchester and Salford Magistrates' Court, for 27 February 2018.

26. The telephone note recording the conversation between Dr Sweeney and the GMC, dated 1 November 2017, states that Dr Sweeney expressed regret and stated that it was a "stupid mistake". He expressed concern that Dr D had ceased his contract at Tameside Hospital. He stated that he did not consider the right decision had been made and was concerned that he would be "left homeless and without any income" as he was then living in hospital accommodation.

27. XXX.

28. XXX.

29. Dr D states that, after the incident which led to his arrest, Dr Sweeney was "full of regret and apologies and was insightful of what he had done to himself thus risking the prospect of continuing his current employment". XXX. He advised that he had approved the extension of Dr Sweeney's contract until 6 February 2018.

XXX

- XXX;

Record of Determinations – Medical Practitioners Tribunal

- XXX;
- XXX; and
- XXX.

30. XXX.

31. XXX.

32. XXX.

33. XXX.

34. XXX.

35. XXX.

36. XXX.

37. XXX.

38. XXX.

39. XXX.

40. XXX.

41. XXX.

42. XXX.

43. XXX.

44. XXX.

45. XXX.

Record of Determinations – Medical Practitioners Tribunal

46. XXX.

47. XXX.

Witness evidence on behalf of the GMC

48. On behalf of the GMC, the Tribunal heard oral evidence from the following witnesses:

- Dr A, by telephone; and
- Dr D, in person.

49. Dr A confirmed that Dr Sweeney is currently employed in a fixed-term (12 months) NHS contract as a locum approved for service. XXX. He stated that there are no concerns with respect to Dr Sweeney's clinical performance and described him as flexible, competent, hard-working and reliable. He further stated that any initial concerns he had upon learning of Dr Sweeney's arrest were alleviated upon speaking with him face-to-face and observing his openness and remorse in discussing the matter.

50. XXX. Dr A stated that he considered Dr Sweeney to be an asset to Tameside General Hospital and the NHS, and that he hoped Dr Sweeney would progress in his career and become a consultant. XXX.

51. XXX.

52. XXX. He [Dr D] stated that Dr Sweeney's professional work is "exemplary" and that he is well-regarded by colleagues.

53. XXX.

54. XXX.

55. XXX.

56. XXX.

Dr Sweeney's evidence

57. Dr Sweeney provided a reflective note dated 12 November 2018 and a witness statement dated 21 January 2019. He also gave oral evidence at the hearing.

58. XXX.

59. XXX.

Record of Determinations – Medical Practitioners Tribunal

60. Dr Sweeney expressed remorse for his actions on 30 October 2017. XXX. He states that he continues to enjoy his work at Tameside hospital and that this provides him with structure, discipline and self-esteem. XXX.

61. XXX.

62. XXX.

63. XXX.

64. Dr Sweeney apologised for his conduct on 30 October 2017 and described that day as the “worst day of my life”. XXX.

65. XXX.

66. XXX.

Submissions

Submissions on behalf of the GMC

67. Mr Vaughan, on behalf of the GMC, submitted that the facts found proved in respect of Dr Sweeney’s conditional discharge amounted to serious misconduct. He further submitted that Dr Sweeney’s fitness to practise was impaired by reason of misconduct.

68. XXX.

69. Mr Vaughan submitted that, based on the available evidence, real conclusions can be drawn that Dr Sweeney’s behaviour has undermined public confidence in the medical profession. XXX.

70. XXX.

71. XXX.

72. XXX.

73. XXX.

Submissions on behalf of Dr Sweeney

74. Mr Newman informed the Tribunal, on behalf of Dr Sweeney, that misconduct and impaired fitness to practise by reason of misconduct XXX were admitted.

Record of Determinations – Medical Practitioners Tribunal

75. XXX.

76. XXX.

The Relevant Legal Principles

77. The Legally Qualified Chair reminded the Tribunal that at this stage of proceedings, there is no formal burden or standard of proof and the decision on impairment is a matter for the Tribunal's judgment alone.

78. In approaching its decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amount to misconduct which is sufficiently serious to call the doctor's fitness to practise into question. If so it must then consider whether the doctor's fitness to practise is currently impaired by reason of such misconduct.

79. The Tribunal has been mindful 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.

80. Whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance set down by Dame Janet Smith in the Fifth Shipman Report and the more recent approach in *CHRE v NMC and Paula Grant*, both of which recognise that as part of the process of determining whether a doctor is fit to practise today it must take account of past actions or failures to act. In particular, the relevant considerations as to whether Dr Sweeney's Fitness to Practise is impaired in the sense that he:

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

Record of Determinations – Medical Practitioners Tribunal

81. In relation to the issue of what constitutes misconduct, the Tribunal was guided by the cases of: *Roylance v GMC [2000] 1 AC 311*; and *Meadow v GMC [2006] EWCA CIV 1390*.

82. The Tribunal must determine whether Dr Sweeney's fitness to practise is currently impaired by reason of misconduct XXX, taking into account his conduct at the time of the events and any relevant factors such as whether the matters are remediable, have been remedied, any development of insight and the likelihood of repetition.

The Tribunal's Determination Misconduct

83. In determining whether Dr Sweeney's fitness to practise is currently impaired by reason of misconduct, the Tribunal has first of all considered whether the facts found proved amount to misconduct by reference to the rules and standards ordinarily required to be followed by a medical practitioner. It has gone on to consider whether that misconduct constitutes a serious departure from those standards and is therefore misconduct likely to impair Dr Sweeney's fitness to practise.

84. The Tribunal determined that the fact of Dr Sweeney being made the subject of a conditional discharge, as well as his conduct which led to his arrests on 30 October 2017, marked a clear departure from the principles set out in paragraphs 1 and 65 of *Good medical practice* ('GMP'). These state:

1 'Patients need good doctors. Good doctors...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.'

85. The Tribunal was mindful that paragraph 65 of GMP is included under the heading 'Act with honesty and integrity'. No allegation of dishonesty has been made against Dr Sweeney, and the Tribunal wishes to emphasise that it does not make any such suggestion of its own volition. Rather, the Tribunal determined that this principle could be applied in general terms.

86. Dr Sweeney's conduct on 30 October 2017 was witnessed by several members of the public and included him acting in an abusive manner towards police officers. The Tribunal was satisfied that Dr Sweeney's behaviour damaged public trust in the profession.

Record of Determinations – Medical Practitioners Tribunal

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

Impairment by reason of Misconduct

88. Having found that the Facts found proved amounted to misconduct which was serious, the Tribunal went on to consider whether, as a result of this, Dr Sweeney’s fitness to practise is currently impaired by reason of his misconduct.

89. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal first of all looked for evidence of insight and remediation and the likelihood of repetition balanced against the three elements of the statutory overarching objective.

90. The Tribunal had regard to the guidance set down by Dame Janet Smith in her Fifth Shipman Report and the more recent approach in *CHRE v NMC and Paula Grant* that in considering how a doctor is likely to act in the future, it is relevant to take into account how they have acted in the past. The Tribunal considers that Dr Sweeney’s actions have in the past brought the medical profession into disrepute and have breached one of the fundamental tenets of the medical profession. The Tribunal further notes that Dr Sweeney remains subject to the conditional discharge. The Tribunal determined that a finding of impaired fitness to practise was therefore required in order to maintain public confidence in the medical profession and maintain proper professional standards and conduct for members of that profession.

91. Accordingly, the Tribunal determined that Dr Sweeney’s fitness to practise is impaired by reason of misconduct.

XXX

92. XXX.

93. XXX.

94. XXX.

95. XXX.

96. XXX.

97. XXX.

98. XXX.

99. XXX.

Record of Determinations – Medical Practitioners Tribunal

Determination on Sanction - 24/01/2019

1. This determination will be read in private. However, as this case concerns Dr Sweeney's misconduct a redacted version will be published at the close of the hearing with those matters relating to XXX removed.
2. Having determined that Dr Sweeney's fitness to practise is impaired by reason of misconduct XXX, the Tribunal now has to decide on the appropriate sanction, if any, to impose.

The Evidence

3. The Tribunal has taken into account evidence already received during this hearing where relevant to reaching a decision on sanction.

Submissions

4. On behalf of the GMC, Mr Vaughan submitted that the only reasonable and appropriate sanction in this case is one of suspension. He referred the Tribunal to a number of paragraphs of the *Sanctions Guidance* (February 2018 Edition) ('the SG') which he submitted were relevant to this case.
5. Mr Vaughan accepted that Dr Sweeney is in stable employment and that those with whom he works speak highly of him, and that he is in a stable relationship with a supportive partner. XXX.
6. Mr Vaughan submitted that there were a number of aggravating features in this case. XXX.
7. In relation to the incident on 30 October 2017 Mr Vaughan observed that Dr Sweeney had made a deliberate and conscious decision to purchase and consume alcohol in the absence of any peer pressure. In the pub Dr Sweeney lost control and acted in an aggressive and abusive manner to such an extent that the police were called. His behaviour did not improve when the police arrived and he was arrested. Dr Sweeney was convicted and sentenced to a conditional discharge. Mr Vaughan submitted that it was concerning that the events of 30 October 2017 were in response to an apparently innocuous trigger of an unexpectedly positive meeting XXX. Mr Vaughan submitted that although the last serious incident that Dr Sweeney was involved with was on 30 October 2017, the lapse of time did not mitigate the seriousness and magnitude of the matters before this Tribunal.
8. XXX.

Record of Determinations – Medical Practitioners Tribunal

9. XXX.

10. XXX.

11. Mr Vaughan submitted that Dr Sweeney had failed to remediate concerns regarding his behaviour. He further submitted that suspension would have a deterrent effect and that it was the only suitable sanction to meet the gravity of Dr Sweeney's conduct.

12. Mr Vaughan observed the length of suspension was a matter for the Tribunal. He submitted that any sanction must be proportionate and necessary. He submitted that the Tribunal could not be satisfied that Dr Sweeney would comply with conditions imposed on his registration in the absolute way required.

13. On behalf of Dr Sweeney, Mr Newman submitted to the Tribunal that an order of suitably drafted conditions on Dr Sweeney's registration would be the proportionate outcome in this case. XXX. He is deeply ashamed of his actions on 30 October 2017. Mr Newman pointed to the time that has elapsed since then. XXX.

14. XXX.

15. Mr Newman drew the Tribunal's attention to the positive progress reports and oral evidence of XXX Dr A, which he submitted should be given considerable weight. XXX. support Dr Sweeney's continued practice. XXX. He observed that Dr Sweeney has been working well and there have been no issues regarding his clinical skills and performance at work. He drew the Tribunal's attention to the positive testimonials produced on Dr Sweeney's behalf from current colleagues, many of whom comment positively on the service he provides to patients and describe him as a valuable asset.

16. XXX.

Aggravating and Mitigating Factors

17. The Tribunal first considered the aggravating and mitigating factors in this case. The Tribunal noted a number of aggravating factors as outlined below:

- XXX
- XXX
- XXX
- XXX
- XXX
- Dr Sweeney's serious misconduct in the pub even after police arrival and then after arrest
 - There were 20-30 people in the pub a number of whom were 'shocked and shaken'
 - Dr Sweeney's possession of class A,B and C drugs on that occasion

Record of Determinations – Medical Practitioners Tribunal

- Dr Sweeney’s conviction and conditional discharge
- XXX.

The Tribunal also noted a number of mitigating factors as outlined below:

- XXX.
- That he made prompt full and frank admissions throughout and is open about his behaviour
- XXX
- XXX
- XXX
- XXX
- XXX
- The lapse of time since the incident on 30 October 2017 and the absence of any subsequent incidents.

The Tribunal’s Determination on Sanction

18. The decision as to the appropriate sanction, if any, to impose in this case is a matter for this Tribunal exercising its own judgement.

19. The Tribunal recognises that the purpose of any sanction is not to be punitive, although it may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Sweeney’s interests with the public interest.

20. The Tribunal has already set out its determination on the facts and impairment, which it took into account, where relevant, during its deliberations on sanction. It considered each sanction in ascending order of seriousness, starting with the least restrictive.

No Action

21. The Tribunal first considered whether to conclude Dr Sweeney’s case by taking no further action. However, the Tribunal determined that there were no exceptional circumstances in this case which would justify such a course.

Conditions

22. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Sweeney’s registration. It has borne in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

23. In making its decision the Tribunal had regard, amongst others, to paragraphs XXX, 82 and 84 of the SG which state:

Record of Determinations – Medical Practitioners Tribunal

'XXX

'82 Conditions are likely to be workable where:

a the doctor has insight

b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings

c the tribunal is satisfied the doctor will comply with them

d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.'

'84 Depending on the type of case (eg health, language, performance or misconduct), some or all of the following factors being present (this list is not exhaustive) would indicate that conditions may be appropriate:

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

...

c willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date throughout their working life, improving the quality of their work and promoting patient safety ...

XXX.

24. XXX.

25. The Tribunal was impressed by the level of support that Dr Sweeney has received in his workplace and considers that this is likely to be indicative of the level of regard in which he is held by his colleagues who know him well. That level of regard is further evidenced by eight testimonials from Dr Sweeney's colleagues, all of which are in very positive terms.

26. The Tribunal was particularly mindful that it has been some 14 months since the XXX incident in this case on 30 October 2017 and there has been no repeat of such behaviour since then. XXX.

27. XXX.

28. Accordingly the Tribunal was of the view that a period of conditional registration would be proportionate and appropriate for the protection of patients, and would be in the public interest.

29. The Tribunal did not consider that a period of suspension of Dr Sweeney's registration was necessary to maintain public confidence in the profession or to uphold professional standards in this case. It considered that such a measure would

Record of Determinations – Medical Practitioners Tribunal

be disproportionate and counterproductive. The Tribunal further considered that it would not be in the public interest to suspend Dr Sweeney's registration bearing in mind the length of time that has elapsed since the episode on 30 October 2017. Furthermore, Dr Sweeney is described as an asset to the NHS by Dr A. The Tribunal acknowledged the positive work that Dr Sweeney has been undertaking since 2017 for the NHS and patients XXX. The Tribunal was further of the opinion that a sanction of suspension would be disproportionate where the public interest can be satisfied by a finding of impairment and the imposition of conditions.

30. The following conditions are not confidential and will be published:
1. He must notify the GMC within seven calendar days of the date these conditions become effective:
 - a of the details of his current post, including his job title, job location and responsible officer (or their nominated deputy) information
 - b of the contact details of his employer and/or contracting body, including his direct line manager
 - c of any organisation where he has practising privileges and/or admitting rights
 - d of any training programmes he is in
 - e of the contact details of any locum agency he is registered with.
 2. He must notify the GMC:
 - a of any post he accepts, before starting it
 - b if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings
 - c if he applies for a post outside the UK.
 3. He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.
 4.
 - a He must have a workplace reporter approved by his responsible officer (or their nominated deputy) and must inform the GMC of these arrangements.

Record of Determinations – Medical Practitioners Tribunal

- b He must not start/restart work until his responsible officer (or their nominated deputy) has approved his workplace reporter and this approval has been forwarded to the GMC.
- 5. a He must get the approval of the GMC Adviser before accepting any post.
 - b He must keep his professional commitments under review and limit his work if the GMC Adviser tells him to.
 - c He must stop work immediately if the GMC Adviser tells him to and must get the approval of the GMC Adviser before returning to work.
- 6. He must get the approval of the GMC before starting work in a non-NHS post or setting.
- 7. a He must be supervised in all of his posts by a clinical supervisor, as defined in the *Glossary for undertakings and conditions*. His clinical supervisor must be approved by his responsible officer (or their nominated deputy) and he must inform the GMC of these arrangements.
 - b He must not start/restart work until his responsible officer (or their nominated deputy) has approved his clinical supervisor and this approval has been forwarded to the GMC.
- 8. He must not work in any locum post or fixed term contract of less than eight weeks duration.
- 9. He must inform the following persons of the conditions listed at 1 to 8:
 - a his employer and/or contracting body
 - b his responsible officer (or their nominated deputy)
 - c his immediate line manager at his place of work, at least 24 hours before starting work (for current and new posts including locum posts)
 - d any prospective employer and/or contracting body, at the time of application

Record of Determinations – Medical Practitioners Tribunal

e The responsible officer of any organisation where he has, or has applied for, practising privileges and/or admitting rights, at the time of application

f any locum agency or out-of-hours service he is registered with.

31. XXX.

32. The Tribunal determined to impose conditions on Dr Sweeney's registration for a period of 24 months. XXX.

Review hearing directed

33. The Tribunal has directed that, shortly before the end of the period of conditions, his case will be reviewed by a Medical Practitioners Tribunal. It considered that a future Tribunal reviewing this matter would be assisted by:

- Evidence that the conditions imposed on his registration have been met;
- Any references or testimonials;
- XXX;
- Evidence to show that he has maintained his medical skills and knowledge; and
- Any other evidence that he feels will assist the Tribunal in reviewing his case.

34. The MPTS will write to Dr Sweeney informing him of his right of appeal, and confirming the date on which the conditions become effective if he does not exercise his right of appeal.

Determination on Immediate Order - 24/01/2019

1. Both parties have made detailed submissions on the options open to the Tribunal at this stage as to how to deal with Dr Sweeney's registration during the appeal period. Both parties were keen to ensure that there should be no period without an order being in place.

2. In reaching its decision, the Tribunal had regard to its previous determinations and the submissions made by both parties.

3. The Tribunal has had regard to section 38(2) of the Medical Act which does not provide a Tribunal with the power to impose an immediate order at a review under section 35D(12). Furthermore, the Tribunal is satisfied that the current order of substantive conditions sufficiently addresses the risk to members of the public and the public interest in this case. The Tribunal took account of Schedule 4 paragraph

Record of Determinations – Medical Practitioners Tribunal

11(3) which provides for the extension of the current order of conditions throughout the appeal period.

4. The interim order of conditions is hereby revoked.

Confirmed
Date 24 January 2019

Mr Richard Tutt, Chair