

PUBLIC RECORD

Dates: 22/03/2021 – 23/03/2021
29/03/2021
31/03/2021 – 06/04/2021
07/05/2021 – 09/05/2021
30/06/2021 – 01/07/2021
02/11/2021 – 03/11/2021

Medical Practitioner’s name: Dr Christopher MATTOCK
GMC reference number: 2715249
Primary medical qualification: MB BS 1981 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	Mr Robert Ward 22/03/2021 – 23/03/2021, 29/03/2021, 31/03/2021 - 06/04/2021, 07/05/2021 – 09/05/2021 Mrs Linda Lee 30/06/2021 – 01/07/2021, 02/11/2021 – 03/11/2021
Lay Tribunal Member:	Dr Matthew Fiander
Medical Tribunal Member:	Dr Frances Burnett
Tribunal Clerk:	Mr Edward Kelly Mr Andrew Ormsby 30/06/2021 – 01/07/2021 Ms Maria Khan 02/11/2021 – 03/11/2021

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner’s Representative:	Mr Christopher Mellor, Counsel, instructed by Medical Protection Society – 29/03/2021 Mr Tom Kark, QC, instructed by Medical Protection Society
GMC Representative:	Mr Tim Grey, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 09/05/2021

Background

1. Dr Mattock qualified in 1981 with MBBS from University College Hospital Medical School. He obtained MRCP(UK) from the Royal College of Physicians of Edinburgh in 1985 and in 1992 obtained MRCPATH in Haematology and Blood Transfusion. Prior to the events which are the subject of the hearing Dr Mattock worked as the sole Consultant in Haematology and Blood Transfusion at the General Hospital, St Helier, on Jersey ('the Hospital') from 1993 until his resignation on 2019, at which time he retired from medical practice.

2. Dr Mattock first became aware of Patient A in 2011 following her presentation with an acute extensive right ilio-femoral deep venous thrombosis (DVT), for which she had undergone emergency surgical thrombectomy in Bournemouth. Patient A had been referred to Dr Mattock for a thrombophilia assessment, which proved negative, and a diagnosis of combined oral contraceptive preparation provoked DVT was made. Patient A was treated with extended anticoagulant therapy (warfarin) for 12 months; this was an extended treatment course that Dr Mattock had tailored to match Patient A’s specific clinical circumstances.

3. Patient A needed to attend the Hospital frequently between 2011 and 2018 seeing clinicians in different departments. She was seen by Dr Mattock in 2012 but was not seen by him again in person until October 2017. Dr Mattock was asked for medical advice on a number of occasions in the intervening period by her GP and other medical practitioners involved in the treatment of Patient A.
4. On 28 September 2017, Patient A lodged a complaint with the Hospital via an email titled 'Complaint regarding Mr Mattock' ('the Complaint').
5. The allegation that has led to Dr Mattock's hearing can be summarised as follows: on 18 October 2017, he carried out a consultation with Patient A in the presence of her husband, Mr B. During this consultation, it is alleged that he presented Patient A with a Retraction Letter referring to her Complaint that he had drafted. It is alleged that Dr Mattock coerced Patient A into signing this letter and then sent it to the Hospital, dishonestly stating that the letter clarified her position.
6. In early December 2017, upon being contacted by the Hospital, Patient A informed them that the Retraction Letter had been signed following coercion by Dr Mattock. The Hospital undertook an investigation which led to Dr Mattock being referred to the GMC.

The Outcome of Applications Made during the Facts Stage

7. The Tribunal determined to grant an application by Mr Ravi Gupta, on behalf of Dr Mattock, made pursuant to Rules 29(2) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to adjourn proceedings from Monday 23 March 2021 to Monday 29 March 2021, to organise legal representation. The Tribunal's full decision on the application is included in Annex A.
8. The Tribunal determined to grant an application by Mr Christopher Mellor, on behalf of Dr Mattock, made pursuant to Rules 29(2) of the Rules, to adjourn proceedings from Monday 29 March 2021 to Wednesday 31 March 2021, to secure alternative representation for Dr Mattock. The Tribunal's full decision on the application is included in Annex B.
9. The Tribunal determined to grant an application by Mr Tom Kark QC, on behalf of Dr Mattock, made pursuant to Rules 17(2)g of the Rules, of no case to answer in relation to paragraph 4c(i) of the Allegation. As a consequence of the oral evidence of Patient A, the GMC agreed with the submission. The Tribunal also agreed and determined that it was fair, appropriate and in the interest of justice to withdraw the paragraph.

The Allegation and the Doctor's Response

10. The Allegation made against Dr Mattock is as follows:

1. In response to a complaint made against you by Patient A on 28 September 2017 ('the Complaint') you created a letter dated 18 October 2017 ('the Retraction Letter') addressed to the Managing Director at Jersey General Hospital ('the Hospital') which:
 - a. concluded with the name of Patient A; **Admitted and Found Proved**
 - b. indicated that Patient A did not wish to pursue the Complaint. **Admitted and Found Proved**
2. During a consultation with Patient A on 18 October 2017 you:
 - a. advised Patient A that you were aware of the Complaint; **Admitted and Found Proved**
 - b. stated words to the effect that if Patient A did not sign the Retraction Letter you would not:
 - i. be her friend; **To Be Determined**
 - ii. want to see her again as a patient; **To Be Determined**
 - c. spoke in a rude and / or inappropriate manner to Patient A and / or her husband. **To Be Determined**
3. Your conduct as set out at paragraph 2 b. was designed to coerce Patient A into signing the Retraction Letter. **To Be Determined**
4. In response to the Complaint you sent a letter dated 12 November 2017 addressed to the Deputy Director of Operations ('the DDO') at the Hospital:
 - a. attaching the signed Retraction Letter; **Admitted and Found Proved**
 - b. stating that Patient A had clarified her position in the Retraction Letter; **Admitted and Found Proved**
 - c. giving the impression that the Retraction Letter was:
 - i. ~~drafted by Patient A~~; **Deleted after a successful Rule 17(2)(g) application**
 - ii. approved by Patient A; **Admitted and Found Proved**
 - iii. reflective of Patient A's opinion. **Admitted and Found Proved**
5. You knew that:
 - a. the information provided to the DDO as set out at paragraph 4 b. was untrue; **To Be Determined**

- b. you had:
- i. created the Retraction Letter; **Admitted and Found Proved**
 - ii. coerced Patient A into signing the Retraction Letter. **To Be Determined**

6. Your actions as described at paragraph 4 were dishonest by reason of paragraph 5. **To Be Determined**

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

The Admitted Facts

11. At the outset of these proceedings, through his counsel, Mr Kark, Dr Mattock made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

12. In light of Dr Mattock's response to the Allegation made against him, the Tribunal is required to reach its determinations in relation to the outstanding paragraphs.

Evidence

13. The Tribunal received evidence on behalf of the GMC from Patient A and Mr B by video link.

14. Dr Mattock provided his own witness statement and gave oral evidence in person.

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

- Dr C, Consultant Interventional Radiologist at the Hospital, dated 2 March 2021;
- Ms D, Haematology-Oncology Nurse Specialist at the Hospital, dated 3 March 2021; and
- Dr E, Consultant Physician and Kidney Specialist at the Hospital, dated 2 March 2021.

Documentary Evidence

16. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited to, a letter dated 18 April 2019 from Dr F, Medical Director at Jersey Hospital, and bundles provided to the Disciplinary Hearing on 24 January

2019. Documentation from Patient A and Mr B to support the Complaint and the medical records of Patient A were also considered.

The Tribunal's Approach

17. In determining the facts, the Tribunal has borne in mind that the burden of proof rests on the GMC. Dr Mattock 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 as alleged.

18. The Tribunal reminded itself that it must form its own judgement about the witness evidence heard before it, and the reliability of witnesses. It noted that it must decide whether to accept or reject such evidence, and where it is accepted, what weight to attach to it.

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

'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.'

20. The Tribunal accepted the submission that Dr Mattock is a man of good character and applied the relevant case law regarding this, namely *Wisson v Health Professions Council [2013] EWHC 1036 Collins J*:

"good character must always be likely to be relevant for the panel where there is a substantial issue of fact to be decided and where the credibility of the registrant in the evidence that he gives, is an issue and it can also go to whether it is likely that he did do what is alleged against him...even general good character evidence can be material where... there are issues of fact that have to be resolved in a hearing before the panel"

21. The Tribunal also bore in mind that it should assess and determine each paragraph and sub-paragraph of the Allegation separately. It noted that while it can draw inferences from the evidence, it must not speculate. The Tribunal took account of the requirements to examine carefully and fully all the evidence and to give sufficient and clear reasons so that the parties are able to understand why it has reached its decisions.

The Tribunal's Analysis of the Evidence and Findings

22. The Tribunal has considered each paragraph and sub-paragraph of the Allegation separately, taking into account the submissions of Mr Grey, counsel for the GMC, and Mr Kark, and has evaluated the oral and documentary evidence in order to make its findings on the facts.

Patient A

23. The Tribunal considered that overall Patient A was a believable witness. She did her best to assist the Tribunal with her evidence. The Tribunal appreciated that the October 2017 consultation would have been emotional for Patient A given her complex health difficulties, the struggle she had experienced in obtaining a satisfactory resolution of her health problems, and her perception that Dr Mattock had been unwilling to see her. The Tribunal recognised that, in the context of an emotive consultation over three and a half years ago, the passage of time may have affected some details in her memory of events.

24. The Tribunal noted that there were some inconsistencies in Patient A's oral evidence when compared to her previous statements, the evidence of Mr B, and the clinical records. The Tribunal viewed this as understandable because Patient A was stressed and distressed at the consultation and subsequently the Tribunal formed the view that the presence of some inconsistencies between Patient A's and Mr B's evidence meant that it is unlikely that there had been sophisticated collusion between them. In the context of Patient A's medical history of seeing multiple clinician's over a five-year period, the Tribunal accepted that it was understandable that she might misremember who she saw when.

25. The Tribunal had regard to inconsistencies in Patient A's evidence. The Tribunal determined that notwithstanding these it could safely rely upon her clear evidence about how she experienced Dr Mattock's behaviour specifically relating to her signing of the Retraction Letter during the consultation.

26. The Tribunal considered that Patient A had no reason to act in a malicious way towards Dr Mattock because, after the complaint which led to the GMC referral, Patient A went on to receive the treatment that she needed and wanted, which had been arranged by Dr Mattock, and which was the main objective of her 28 September 2017 Complaint.

Mr B

27. Mr B did his best to assist the Tribunal and was open and credible in his evidence. The Tribunal took into account that Mr B struggled to articulate his evidence at times. It considered that the passage of time may have had an impact on the clarity of his memory. The Tribunal appreciated that Mr B will have been adversely affected by the factors which affected Patient A, as outlined in paragraph 23 above. Mr B was clearly deeply upset and affected by his wife's ongoing issues with her health and had an emotive response to the highly sensitive situation which developed during the consultation.

28. The Tribunal judged that while there were some inconsistencies in his evidence, the thrust of what Mr B stated was credible and reliable. The Tribunal accepted Mr B's evidence that he had read Patient A's witness statements and had discussed these with her; the Tribunal took this as an indication of his candour. This increased his credibility in the Tribunal's view.

Dr Mattock

29. The Tribunal acknowledged that Dr Mattock is of good character and this means that it is less likely that he acted in the way alleged and more likely that he is telling the truth when giving evidence.

30. Dr Mattock was generally a straightforward witness. The evidence in relation to his normal practice and his manner towards patients generally was credible and supported by positive testimonials. There is ample evidence that Dr Mattock is an excellent and highly respected clinician who strives to do his best for his patients. In his evidence, and in appraisals of his manner by colleagues, Dr Mattock appeared to be a somewhat bluntly spoken and direct individual.

31. Notwithstanding this, the Tribunal considered that Dr Mattock was very careful, and at times guarded, in the presentation of his evidence regarding the Retraction Letter and his answers were constructed to support his case, as opposed to answering questions with complete transparency.

32. Dr Mattock has accepted, in his written statement, that he acted inappropriately when dealing with Patient A's Complaint and regrets his actions. He has explained his actions were as a result of being victimised by the Hospital Management.

Note on the agreed statement of Dr C

33. The Tribunal considered it useful in reaching its determination that it had the agreed evidence of Dr C, which made it clear that Dr Mattock had already agreed a treatment plan for Patient A with him, prior to his consultation with her on 18 October 2017, and that Patient A did get the treatment that she had sought and needed.

The Tribunal's Decision

Paragraphs 2b(i) and 2b(ii)

34. The Tribunal noted that Dr Mattock set out to provide Patient A with the best treatment that he could, and in fact, his intervention had been instrumental in securing appropriate care for her. The treatment management plan already established with Dr C was in Patient A's best interests and the Tribunal determined that Dr Mattock would not have intended to remove care for Patient A even if she had declined to retract the Complaint.

Furthermore, the Tribunal acknowledged that Dr Mattock had provided support and advice 'behind the scenes' in the treatment and care of Patient A between 2012 and 2017, although Patient A's perception (through no fault of hers or Dr Mattock's) of that when making the Complaint in September 2017 was very different.

35. However, on the basis of the evidence and the outcome of the consultation, it is the Tribunal's view that Dr Mattock wanted to get the adverse situation of the Complaint against him removed. There is enough evidence from Dr Mattock's own statement, the written letter and his oral evidence, that he thought it would be difficult to work with Patient A if the complaint against him was pursued.

36. The Tribunal accepts that Dr Mattock may not have used the exact words alleged, namely that he would not "*be her [Patient A's] friend*" or that he would not "*want to see her again as a patient*" but the Allegation includes '*stated words to the effect*'. Therefore, the Tribunal had to be satisfied on the balance of probabilities not of the exact words used but of the thrust of what Dr Mattock said.

37. The Tribunal found that it could rely on the evidence of Patient A and Mr B because they were consistent and firm in their memory of their emotions in response to Dr Mattock's behaviour during the consultation and were both clear that Patient A was coerced into signing the letter by what Dr Mattock said. The Tribunal does not prefer the submission of Mr Kark that Patient A and Mr B could have colluded in their evidence. This is because there are some inconsistencies in their evidence, which indicates that sophisticated collusion had not taken place. The Tribunal found Patient A and Mr B credible on the key points in relation to paragraph 2 of the Allegation.

38. In reaching its decision, the Tribunal took into account that Dr Mattock is of previous good character, and the consultation was very much out of character from his usual high standards and patient-centred approach to consultations and treatment.

39. On the dispute concerning when during the consultation the Retraction Letter was provided to be signed relative to the treatment of Patient A being discussed, the Tribunal formed the view that the timing of when the Retraction Letter was discussed does not have a significant bearing on its decision. If Dr Mattock had a discussion regarding the Retraction Letter and Patient A was coerced, that is the matter in question. The Tribunal recognised that indicating that he would not want to see Patient A again unless the Retraction Letter was signed could be a successful strategy to ensure that the Complaint was withdrawn, but so could explaining what treatment had been arranged and then indicating that what was on offer was conditional on the Complaint being withdrawn.

40. The Tribunal considered that Dr Mattock's course of conduct began upon learning of the Complaint and his recognition of how it might adversely affect his already difficult relationship with Hospital Management. This then progressed to drafting the Retraction Letter, continued into the discussion he had with Patient A about withdrawing her Complaint, then his sending of that letter to the Hospital Management.

41. The Tribunal determined that, on the balance of probabilities, Dr Mattock did utilise terminology during the consultation with Patient A to the effect that if she did not sign the Retraction Letter he ‘would not be her friend’ and ‘would not want to see her again as a patient’.

42. Therefore, the Tribunal finds paragraphs 2b(i) and 2b(ii) of the Allegation proved.

Paragraph 2c

43. The Tribunal was unable to identify evidence of direct rudeness to either Patient A or Mr B. The Tribunal determined that Dr Mattock was not rude to Mr B. Mr B may have felt ignored when Dr Mattock asked him to be quiet so that he could focus on Patient A’s clinical needs, however this may well have been misinterpreted because of the highly emotive circumstances of the consultation. It is likely that, due to Dr Mattock’s direct manner, and bearing in mind that Dr Mattock was frustrated with the difficult relationship with the Hospital Management, he may have been more direct than normal leading Mr B to feel there had been rudeness towards him. The Tribunal found that Dr Mattock did not speak in a rude manner towards Patient A.

44. The Tribunal considered that the terminology utilised as above in paragraph 2b(i) and 2b(ii) of the Allegation, pressured Patient A to sign the Retraction Letter, which the Tribunal found was clearly inappropriate. The Tribunal considered it was also inappropriate for Dr Mattock to make reference to the Hospital ‘bearing down on him’ when Patient A had recently lodged a complaint naming him, and where the focus of the consultation should have been advising and agreeing a treatment plan. Also, references to Patient A ‘doing him a favour’ by not complaining is conduct that is not expected of a medical professional, and is inappropriate. This language formed part of Dr Mattock’s course of conduct that started when he learned of the Complaint.

45. The Tribunal found that during the consultation with Patient A on 18 October 2017 Dr Mattock spoke in an inappropriate manner to Patient A, and this paragraph is accordingly found proved to that extent.

Paragraph 3

46. The Tribunal bore in mind its findings in relation to paragraph 2b of the Allegation. The approach taken by Dr Mattock during the consultation was part of a course of conduct which commenced once he had learnt of the Complaint.

47. Dr Mattock included in his discussion the potential disadvantages to Patient A if she did not sign the letter. His conduct during the consultation was designed and intended to secure Patient A’s signing of the letter. It achieved that aim.

48. Therefore, the Tribunal determined that Dr Mattock's conduct as set out at paragraph 2b was designed to coerce Patient A into signing the Retraction Letter, and accordingly finds this paragraph proved.

Paragraph 5a

49. The Tribunal considered that Dr Mattock may have been under the impression that the position he articulated in the letter he presented to Patient A was correct, in the context that he believed he had worked hard behind the scenes to treat Patient A and that the Complaint was without substance. Further, the Tribunal took into account that Dr Mattock had developed a treatment plan for Patient A and this was articulated to her during the consultation and followed through in the months after the 18 October 2017 consultation.

50. However, having determined that Dr Mattock coerced Patient A into signing the letter, the Tribunal determined that his conduct was designed to get the outcome he wanted, as opposed to the course of action which Patient A had intended, which was for the Complaint to be investigated. Patient A had not clarified her position in the way communicated in the information provided to the Deputy Director of Operations ('the DDO') at the Hospital, because she did not wish to retract her Complaint whereas the information indicated that she did. Dr Mattock had obtained Patient A's signature on the Retraction Letter through coercion, but this was not reflected in the information provided to the DDO. Patient A was clear that she had never retracted her Complaint of her own free will, and the Tribunal accepted this.

51. Dr Mattock's course of conduct once he had learnt of the Complaint was aimed at stopping it. Therefore, the Tribunal found that it is more likely than not that he knew that the contents of the letter were not an accurate reflection of Patient A's wishes in relation to the Complaint, the Retraction Letter having been obtained through coercion. Therefore, the Tribunal determined that the information provided to the DDO at the Hospital as set out at paragraph 4b was untrue, and this paragraph is accordingly proved.

Paragraph 5b(ii)

52. The Tribunal recognised that Dr Mattock may have justified, in his own mind, that his discussion with Patient A had convinced her that she should retract her Complaint. This is evidenced by the facts that he hugged Patient A when she departed the consultation and that Patient A would have been pleased that she was to receive the treatment that she needed. Further, the Tribunal believes that Dr Mattock had every intention of treating Patient A, regardless of whether she withdrew her Complaint.

53. However, for the reasons set out above, the Tribunal determined that Dr Mattock's manner and language in persuading Patient A were coercive and that Dr Mattock knew that he had coerced Patient A into signing the Retraction Letter. He must have known this because it was a key step in the course of conduct he had undertaken since learning of the Complaint.

54. Accordingly, the Tribunal finds paragraph 5b(ii) of the Allegation proved.

Paragraph 6

55. The Tribunal took into account the above findings and the admitted aspects of the Allegation when considering whether Dr Mattock had been dishonest.

56. Applying the *Ivey v Genting Casinos* test, the actual state of the Dr Mattock's knowledge or belief as to the facts was that he knew that the Retraction Letter had been signed under coercion. Any self-justification he had in his own mind did not remove his knowledge of the course of conduct he had undertaken, a key step of which was coercing Patient A into signing the Retraction Letter. The Tribunal formed the view that sending the Retraction Letter to the DDO at the Hospital, knowing that it had had been signed under coercion, was clearly dishonest by the objective standards of ordinary decent people.

57. Therefore, the Tribunal finds this paragraph of the Allegation proved.

Summary

58. The Tribunal found proved all of the outstanding paragraphs of the Allegation against Dr Mattock.

The Tribunal's Overall Determination on the Facts

59. The Tribunal has determined the facts as follows:

1. In response to a complaint made against you by Patient A on 28 September 2017 ('the Complaint') you created a letter dated 18 October 2017 ('the Retraction Letter') addressed to the Managing Director at Jersey General Hospital ('the Hospital') which:
 - a. concluded with the name of Patient A; **Admitted and Found Proved**
 - b. indicated that Patient A did not wish to pursue the Complaint. **Admitted and Found Proved**
2. During a consultation with Patient A on 18 October 2017 you:
 - a. advised Patient A that you were aware of the Complaint; **Admitted and Found Proved**
 - b. stated words to the effect that if Patient A did not sign the Retraction Letter you would not:
 - i. be her friend; **Determined and found proved**

- ii. want to see her again as a patient; **Determined and found proved**
 - c. spoke in a rude and / or inappropriate manner to Patient A and / or her husband. **Determined and found proved**
- 3. Your conduct as set out at paragraph 2 b. was designed to coerce Patient A into signing the Retraction Letter. **Determined and found proved**
- 4. In response to the Complaint you sent a letter dated 12 November 2017 addressed to the Deputy Director of Operations ('the DDO') at the Hospital:
 - a. attaching the signed Retraction Letter; **Admitted and Found Proved**
 - b. stating that Patient A had clarified her position in the Retraction Letter; **Admitted and Found Proved**
 - c. giving the impression that the Retraction Letter was:
 - i. ~~drafted by Patient A;~~ **Deleted after a successful Rule 17(2)(g) application**
 - ii. approved by Patient A; **Admitted and Found Proved**
 - iii. reflective of Patient A's opinion. **Admitted and Found Proved**
- 5. You knew that:
 - a. the information provided to the DDO as set out at paragraph 4 b. was untrue; **Determined and found proved**
 - b. you had:
 - i. created the Retraction Letter; **Admitted and Found Proved**
 - ii. coerced Patient A into signing the Retraction Letter. **Determined and found proved**
- 6. Your actions as described at paragraph 4 were dishonest by reason of paragraph 5. **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 - 01/07/2021

1. This determination will be read in private. A redacted version will be published at the close of the hearing with those matters relating to XXX removed.

Evidence

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

3. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows:

- Testimonials from Lady G, wife of patient, dated 25 September 2019 and 24 June 2021;
- Testimonial from Mr H, patient, dated 24 June 2021;
- Testimonial from Professor I, patient, dated 28 June 2021;
- Testimonial from Mr J, patient, dated 27 June 2021;
- Testimonials from Dr K, Consultant Neurologist at Jersey General Hospital, dated 19 September 2019 and 28 June 2021;
- Testimonial from Mrs L, patient, dated 25 June 2021;
- Testimonial from Dr M, Consultant Radiologist at Jersey General Hospital, dated 24 June 2021;
- Testimonial from Ms D, Haematology-Oncology Nurse Specialist at Jersey General Hospital, dated 27 June 2021;
- Testimonial from Dr E, Consultant Physician and Nephrologist at Jersey General Hospital, dated 28 June 2021;
- Testimonial from Mr N, Clinical Nurse Specialist, Deputy Manager for Oncology/Haematology at Jersey General hospital, dated 26 June 2021;
- Dr O, General Practitioner, Lister Surgery, St Helier, Jersey, dated 27 June 2021;
- Course certificate, 'Mastering Professional Interactions', dated 14 May 2019;
- Course certificate, 'Difficult interactions with colleagues', dated 27 January 2021; and
- Course certificate, 'Managing Complaints (England)', dated 20 March 2021.

Submissions

4. On behalf of the GMC, Mr Grey submitted that Dr Mattock's actions in coercing Patient A into retracting her complaint and his subsequent dishonesty were a serious departure from Good Medical Practice and amounted to serious misconduct.

5. Mr Grey stated that there was no suggestion that Dr Mattock would have withheld treatment pending a retraction but nonetheless there was a complaint made against the doctor by a patient who was not treated fairly. The letter he had sent was erroneous and deceitful and Dr Mattock knew it to be so.

6. Mr Grey further submitted that, although a one-off incident of dishonesty may not require a finding of impairment, there was a very real distinction in this case as there was extremely limited evidence of insight or real evidence of remediation. He stated that in light of the finding of facts this was a practitioner who was 'kidding himself' about the true state of affairs in this case and had sought to provide a self-justification for his actions.

7. Mr Grey stated that this case involved a course of premeditated conduct in which the doctor prepared a document and presented it to the patient and coerced her to sign it and then lied about what it purported to be. Mr Grey stated that this could not be regarded as a single incident of dishonesty. He argued that in the circumstances a finding of impairment was necessary to uphold public confidence in the profession.

8. Further, he stated that Dr Mattock's journey towards full insight was on the 'nurse slopes'. Mr Grey submitted that it was not clear that Dr Mattock has understood that his behaviour with regard to the index incident was unjustifiable in any circumstances and, as such, it was unclear whether there was a risk of it happening again or of a similar incident occurring.

9. On behalf of Dr Mattock, Mr Kark submitted that in light of the finding of dishonesty it was conceded that there was sufficient evidence in this case for a finding of misconduct. He stated that it was not conceded that Dr Mattock's current fitness to practise was impaired but, in any event, Dr Mattock had no intention of resuming practice.

10. Mr Kark submitted that Dr Mattock was a doctor of good character and that he had never appeared before the GMC before. He had an unblemished medical record of 36 years until this single incident and 40 years prior to these proceedings. He stated that it was a matter of profound regret and shame for Dr Mattock to appear before his regulator at the very last moments of his professional career.

11. Mr Kark further submitted that Patient A's complaint was followed by a protracted and difficult investigation by the Hospital. He stated that Dr Mattock felt targeted and may have had some justification for that sense of unfairness, given that the complaint had been about a number of doctors in addition to Dr Mattock. Mr Kark stated that none of the other doctors were investigated or interviewed with a view to investigation. He further submitted that Dr Mattock had raised a number of patient safety issues generally with management at the Hospital and this gave rise to the concern genuinely held by Dr Mattock that the complaint would be used as a 'stick with which to beat him'. Mr Kark stated that Dr Mattock accepted that he reacted in this unique situation inappropriately.

12. Mr Kark stated that the dishonesty in this case was confined to seeking to persuade the Hospital not to pursue a complaint, which on any view would not have resulted in any form of sanction if investigated. He further submitted that there was no clinical failure in this case and that Dr Mattock continued to have the patient's best clinical interests at heart and had the intention that she should continue to be cared for in the best way possible.

13. Further, he submitted that this dishonesty in relation to the submission of a retraction letter took place 3 years and 9 months ago and that there had been no prior incidents, no recurrence and therefore no pattern of behaviour to indicate current impairment.

14. Mr Kark stated that the multiple and forceful references to his honesty demonstrated that this event was borne out of the unique circumstances that Dr Mattock found himself in and was not a reflection in any way of the doctor's true character. He further submitted that Dr Mattock had undergone remediation courses despite retiring in August 2019 and relinquishing his GMC licence to practise and Jersey licence.

The Relevant Legal Principles

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

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

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

18. With regard to impairment, the Tribunal had regard to the case of *CHRE v NMC and Grant [2011] EWHC 927* where Dame Janet Smith's observations in the Fifth Report of the Shipman Inquiry were endorsed. Dame Janet Smith suggested that questions of impairment could be considered in the light of the following considerations:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/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 brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

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

19. The Tribunal also had regard to in *Cohen v GMC [2008] EWHC 581 (Admin)*, took into account the requirement that *'conduct which led to the charge is easily remediable; that, second, it has been remedied; and, third, that it is highly unlikely to be repeated'*.

20. It also noted the written legal submissions made on behalf of Doctor Mattock and in particular as per Cranston J. in the case of *Cheatle v GMC [2009] EWHC 645 (Admin)*, – *'The doctor's misconduct at a particular time may be so egregious that, looking forward, a panel is persuaded that the doctor is simply not fit to practise medicine without restrictions, or maybe at all. On the other hand, the doctor's misconduct may be such that, seen within the context of an otherwise unblemished record, a Fitness to Practise Panel could conclude that, looking forward, his or her fitness to practise is not impaired, despite the misconduct'*.

21. It also noted the comments of Mitting J. in *Zygmunt v GMC [2008] EWHC 2643 (Admin)*, at paragraph 32 and noted the cases it was referred to which confirmed the principles as set out above and which, it was suggested, were similar to the situation of Dr Mattock.

The Tribunal's Determination on Impairment

Misconduct

22. In reaching its determination on whether Dr Mattock's actions amounted to misconduct, the Tribunal first considered the proven facts in this case.

23. When considering Dr Mattock's conduct in presenting Patient A with a Retraction Letter referring to her Complaint that he had drafted, coercing Patient A into signing this letter and subsequently sending it to the Hospital dishonestly stating that the letter clarified Patient A's position and dishonestly giving the impression that Patient A approved it and that it reflected her opinion, the Tribunal had regard to the following paragraph of *Good Medical Practice (2013)* ('GMP'), namely:

'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 ... colleagues....'

24. The Tribunal accepted Mr Kark's submission that the original complaint was partly borne out of a misunderstanding on Patient A's part that Dr Mattock had been unwilling to see her. It noted that this was indeed not the case as records and correspondence have shown.

25. It further noted that regardless of Patient A's complaint, Dr Mattock had already started working with colleagues to ensure that Patient A had the best medical care and treatment he could provide. Indeed, Dr Mattock's expert evaluation of Patient A's case prevented her from undergoing a surgical procedure that could have been hazardous for her and also set in train the course of treatment which eventually improved her condition.

26. The Tribunal was also cognisant of the previous unfounded complaints made against Dr Mattock and his own sense of victimisation as a result of two previous investigations. It considered that this sense of victimisation by the Hospital may have affected his behaviour which, it noted was highly out of character when considering his years of unblemished practice. The Tribunal noted that Dr Mattock's perception of victimisation by the Hospital may have been the trigger for his behaviour regarding the Retraction Letter.

27. The Tribunal concluded that although Patient A received good care, and although Dr Mattock had a long and previously unblemished career, coercing Patient A into signing the Retraction Letter and dishonestly sending the Retraction Letter to the DDO at the Hospital, knowing that it had had been signed under coercion was clearly conduct that fell below the standard expected from a doctor and was not good practice. The Tribunal was clear that such conduct was unacceptable. In the circumstances the Tribunal concluded that Dr Mattock's actions amounted to serious misconduct.

Impairment

28. Having found that the facts found proved amounted to serious misconduct, the Tribunal went on to consider whether, as a result of that misconduct, Dr Mattock's fitness to practise is currently impaired.

29. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal looked at whether this type of misconduct could be remediated, whether there was evidence of remediation and the likelihood of repetition. It also bore in mind the three elements of the overarching statutory objective. It noted that insight is important in order for a doctor to recognise areas of their behaviour that require improvement, and to take appropriate and relevant steps to address them, thus reducing the likelihood of repetition.

30. The Tribunal acknowledged that Dr Mattock had practised for 36 years before the index incident and that there was no evidence of any similar incident. It further acknowledged that at the time of the index incident XXX.

31. The Tribunal noted that Dr Mattock had expressed profound regret and shame and had apologised for his actions. However, it considered that his expressions of regret and shame had not been as focused on his actions towards Patient A as they could have been. It considered that Patient A was entitled to make her complaint and not be coerced into retracting it.

32. The Tribunal also acknowledged that Dr Mattock accepted that he acted inappropriately when dealing with Patient A's complaint, and that he clearly regretted his actions. It considered that Dr Mattock's sense of victimisation by the Hospital may have been the driving factor for his actions. However, although it considered this to be a potentially significant factor, the Tribunal did not consider this to excuse his serious misconduct.

33. The Tribunal accepted that Dr Mattock did not intend to remove care from Patient A whatever the result of the meeting on 18 October 2017. The Tribunal accepted that the consultation and his subsequent sending of the letter were very much out of character.

34. The Tribunal noted multiple references put forward to demonstrate that the index event was not a reflection of his true professional character. It further noted the '360' feedback responses and patient and colleague reviews provided, the vast majority of which were positive, for example:

- *'Doctor Mattock is an exceptional doctor I have been going to Doctor Mattock for almost 20 years and I do not have enough good things to say about him';*
- *'Although I am generally averse to visiting doctors this is always a strangely enjoyable experience';*
- *'Dr. Mattock is an extremely hardworking individual who pulls out all the stops when treating his patients to diagnose and treat them. He works with them and supports them and their families through some very difficult and painful times and sometimes when the outlook and prognosis can be grim. He will leave no stone unturned when eliminating and ruling out possibilities during the diagnostic phase of his treatment and as a patient you simply could not ask for a better doctor. His knowledge and expertise is vast and he is highly intelligent in his field but is not always the most easy person to approach at times.'* and
- *'He had proved time and time again to be a great source of knowledge & clinical skills and is extremely supportive of the nurse-led clinics that I run. He is passionate about Haematology and always demonstrates a dedicated work ethic.'*

35. The Tribunal further acknowledged that Dr P, Consultant Cellular Pathologist and Clinical Director for Pathology, who had worked with Dr Mattock since April 2019, noted in correspondence dated 17 January 2019 that Dr Mattock had at times disagreed with management and this had placed stress upon him:

'At times he has disagreed with higher management on how the service should be managed and I am aware of the additional stress this conflict has placed on him.'

36. However, there were a small number of '360' feedback reviews that were negative and appeared to the Tribunal relevant to the circumstances which arose in relation to Patient A:

- *‘Whilst his clinical skills are excellent his approach in terms of communications towards colleagues does at times make for difficult confrontational relationships.’;*
- *‘not a team player, can be very defensive and reactive, rude and arrogant to colleagues, writes offensive/unhelpful emails, reluctant to change or adapt to change, unsupportive of colleagues who try to introduce quality improvement for patients.’
and*
- *‘He can be rather intimidating to approach, in particular about issues, he may deem as minor but which are important to the individual ! but gives strong support where it is genuinely needed !’.*

37. The Tribunal also bore in mind the remediation that Dr Mattock had undertaken and noted that he had undertaken this remediation even though he had retired and having stated that he did not intend to return to practise. However, this remediation was limited and it was not clear to the Tribunal what impact this training had on Dr Mattock.

38. Further, the Tribunal considered that there was evidence of a gap in Dr Mattock’s insight as, although he had expressed remorse and apologised to Patient A for his conduct in introducing the idea of a complaint retraction, he had not displayed explicit evidence of insight into his own culpability and dishonesty.

39. The Tribunal has had careful regard to the strong evidence of Dr Mattock’s previous good character but, given his limited insight and remediation, it could not be confident that it was highly unlikely to be repeated and therefore it finds current impairment in this regard.

40. The Tribunal found that notwithstanding this was an isolated episode in a long unblemished career, this could not outweigh the seriousness with which it viewed his actions.

41. In reaching its determination, the Tribunal emphasised that public trust in the profession is essential to medical practice. A doctor who was dishonest in his communication to the Hospital in circumstances where he had coerced a patient into withdrawing her complaint, notwithstanding that such a complaint was unlikely to succeed, would undermine the public’s trust in the profession and bring the profession into disrepute.

42. The Tribunal considered that Dr Mattock’s misconduct engaged the overarching objectives of promoting and maintaining public confidence in the medical profession and of promoting and maintaining proper professional standards and conduct for members of the profession. In the Tribunal’s judgment Dr Mattock’s conduct in coercing Patient A to retract her complaint and his subsequent dishonesty fell seriously below the standard to be expected from a medical practitioner.

43. The Tribunal concluded that confidence in the medical professional would be undermined and that there would be a failure to uphold professional standards if a finding of impairment was not made in circumstances such as these. Therefore, the Tribunal concluded that Dr Mattock’s fitness to practise is impaired by reason of his misconduct

Determination on Sanction - 03/11/2021

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

The Evidence

2. The Tribunal had taken into account evidence received during the earlier stages of the hearing, where relevant, to reach a decision on sanction.
3. Dr Mattock provided a reflective statement dated 31 October 2021.
4. In addition, Dr Mattock submitted the following for consideration by the Tribunal:
 - Certificate dated 14 May 2019 showing completion of a 'Mastering Professional Interactions – Medical UK' workshop, duration of three hours;
 - Certificate of Completion dated 20 March 2021 for a 'Managing complaints (England)' online course of 20 minutes duration;
 - Certificate of Completion dated 20 March 2021 for a 'Difficult interactions with colleagues [UK, IE]' online course of 60 minutes duration.

Submissions

5. On behalf of the GMC, Mr Grey drew the Tribunal's attention to paragraph 38 of its determination on impairment, dated 1 July 2021, which stated that the Tribunal considered Dr Mattock '*had not displayed explicit evidence of insight into his own culpability and dishonesty*'.
6. Mr Grey submitted that since the Tribunal's impairment decision, Dr Mattock had the opportunity to demonstrate real insight and a level of remediation as evidenced in his personal reflections statement dated 31 October 2021. However, the statement was demonstrative of someone who had failed to engage with the insight process. There was a good deal about the hospital and remorse for his own position, but little evidence of remorse in relation to his behaviour towards Patient A.
7. Mr Grey submitted that Patient A had been in a vulnerable position due to her health concerns and attended the consultation with Dr Mattock to address these. Instead, Dr Mattock led Patient A to believe that she would only receive the appropriate treatment if she signed a letter retracting her complaint. This letter was then dishonestly presented to

his employers. Mr Grey submitted there was little acceptance, in Dr Mattock's reflective statement, of either his dishonesty or his coercion of Patient A.

8. Mr Grey further submitted that while Dr Mattock had accepted the Tribunal's previous determination, there was no analysis of this in the statement. Taking into consideration the length of time that had elapsed since then, this was troubling.
9. Mr Grey drew the Tribunal's attention to paragraphs 81 and 82 of the *Sanctions Guidance (November 2020)* (the SG), which state:

'81. Conditions might be most appropriate in cases:

a involving the doctor's health

b involving issues around the doctor's performance

c where there is evidence of shortcomings in a specific area or areas of the doctor's practice

d where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.'

'82. Conditions are likely to be workable where:

a the doctor has insight

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

c the tribunal is satisfied the doctor will comply with them

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

10. Mr Grey submitted that the conditions in paragraph 81 were aimed at cases where there were specific deficiencies in a doctor's practice, for example related to health or performance and that paragraph 82 referred to conditions being workable. As this case involved *'attitudinal issues'* and conditions were likely to be unworkable, conditions would not be the appropriate sanction.
11. Mr Grey acknowledged that this was not a case where there was a direct risk to patients. However, this was a question of public confidence in the profession and maintaining and upholding standards.
12. Mr Grey drew the Tribunal's attention to paragraphs 93 and 97 of the SG which state:

'93. Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions'

'97. Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.

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

b In cases involving deficient performance where there is a risk to patient safety if the doctor's registration is not suspended and where the doctor demonstrates potential for remediation or retraining.

c In cases that relate to the doctor's health, where the doctor's judgement may be impaired and where there is a risk to patient safety if the doctor were allowed to continue to practise even under conditions, or the doctor has failed to comply with restrictions or requirements.

d In cases that relate to knowledge of English, where the doctor's language skills affect their ability to practise and there is a risk to patient safety if the doctor were allowed to continue to practise even under conditions.

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.'

13. Mr Grey submitted that as there was limited acknowledgment of fault, paragraph 93 was not engaged. Paragraph 97 listed factors to take into account and much of the list rendered a suspension less likely to be appropriate. Mr Grey acknowledged that there had been no repetition of Dr Mattock's behaviour since the incident involving Patient A, Mr Grey reminded the Tribunal of his submission in relation to insight and concluded that suspension was an insufficient sanction.

14. Mr Grey drew the Tribunal's attention to paragraph 109 of the SG which states:

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

a A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.

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

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

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

e Violation of a patient's rights/exploiting vulnerable people

f Offences of a sexual nature, including involvement in child sex abuse materials

g Offences involving violence.

h Dishonesty, especially where persistent and/or covered up

i Putting their own interests before those of their patients

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

15. Mr Grey submitted that a great many of these factors were present in this case, including a serious departure from the principles set out in *Good Medical Practice* and a deliberate and reckless disregard for these principles, where '*deliberate*' related to the dishonesty element. Dr Mattock had abused his position of trust and violated Patient A's right to complain, putting his own interests and needs ahead of hers.

16. Mr Grey accepted that Dr Mattock had shown some insight, but he submitted that Dr Mattock had not begun to accept the seriousness and consequences of his actions. While Dr Mattock's intentions had always been to treat Patient A, she did not know that and the effect upon her during the consultation when he invited her to withdraw her complaint could not be underestimated.

17. Mr Grey submitted that taking into account all the circumstances and in order to protect the public and the wider public interest, Dr Mattock's name should be erased from the medical register, his behaviour being fundamentally incompatible with continued registration.
18. On behalf of Dr Mattock, Mr Kark reminded the Tribunal of Dr Mattock's career background, that he was previously a man of good character and had not come across either the GMC or, latterly, the MPTS in his entire career.
19. Mr Kark submitted that a sanction of erasure would be disproportionate and referred the Tribunal to the many positive points it had raised previously in its determinations on facts and impairment.
20. Mr Kark submitted that not every case of dishonesty needed to end with erasure, and that in this case the finding of dishonesty was confined to a single incident in 36 years of diligent practice, to which the run-up was Dr Mattock's perception of his 'victimisation' by his employers. The dishonesty did not relate directly to Patient A herself, but to the sending of a letter that Dr Mattock had coerced her into signing.
21. Mr Kark drew the Tribunal's attention to the mitigating circumstances surrounding this case, including Dr Mattock's insight and remorse, that there has been no clinical failure, and that Dr Mattock had continued to have Patient A's best clinical interests at heart.
22. Mr Kark invited the Tribunal to take into account that this was a genuine isolated event which had been marked by the Tribunal's finding of impairment, and to take no further action.
23. Mr Kark submitted that should the Tribunal be unwilling to take that course, a short period of suspension would be the most appropriate option to mark Dr Mattock's behaviour. He referred the Tribunal to paragraph 91 of the SG which states:

'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.'
24. Mr Kark further submitted that this case was about maintaining public confidence in the profession and that suspension would be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration.

25. Mr Kark drew the Tribunal's attention to paragraph 97 of the SG and submitted that a), e), f), and g) were engaged and indicated that a sanction of suspension would be appropriate.
26. Mr Kark concluded his submissions by pointing the Tribunal to the criteria in the SG relating to the length of suspension. He submitted that if the Tribunal was unwilling to take no action then it should consider a short suspension. To erase would be wholly disproportionate and punitive.

The Tribunal's Approach

27. The decision as to the appropriate sanction, if any, to impose was a matter for the Tribunal exercising its own judgement. In so doing, the Tribunal had considered all the evidence, its findings on facts and on impairment, the submissions made by Mr Grey on behalf of the GMC and submissions from Mr Kark on behalf of Dr Mattock. The Tribunal also had regard to relevant paragraphs in the Sanctions Guidance ('SG').
28. The Tribunal reminded itself that the main reason for imposing any sanction was to protect the public and that sanctions were not imposed to punish or discipline doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal had applied the principle of proportionality, balancing Dr Mattock's interests with the public interest. In deciding what sanction, if any, to impose, the Tribunal considered each of the options available, starting with the least restrictive.
29. The Tribunal was mindful of the fact that the concern in this case was one of dishonesty and abuse of trust and distinguished this from the excellent clinical treatment provided to Patient A by Dr Mattock.
30. In the light of Mr Grey's submission regarding Dr Mattock's reflections, the Tribunal considered whether Dr Mattock took full responsibility for his misconduct. The Tribunal accepted that Dr Mattock remained aggrieved by his perceived mistreatment by the Hospital Management and had sought to explain the relevance of that in his statement. That explanation did not, in the Tribunal's judgement, reflect any lack of insight or remorse. Indeed, the Tribunal accepted that Dr Mattock had expressed regret for his misconduct and its impact on others. The Tribunal considered that Dr Mattock did take full responsibility for his behaviour towards Patient A and for his subsequent dishonesty. The Tribunal was satisfied that Dr Mattock's expressions of remorse were genuinely held.

The Tribunal's Determination on Sanction

Aggravating factors

31. The Tribunal had regard to paragraph 50 of the SG which states:

'50. The tribunal needs to consider any aggravating factors presented to it against the central aim of sanctions'.

32. The Tribunal recognised that the particular circumstances associated with receiving treatment in a small island community could make patients more vulnerable. However, the circumstances in this case did not lead the Tribunal to conclude that Patient A's vulnerability was such that it should be regarded as an aggravating factor.

Mitigating factors

33. The Tribunal noted that the incident involving Patient A was an isolated incident in a long career.
34. Having noted Dr Mattock's reflections in the months since the decision on impairment was handed down, the Tribunal was satisfied that if placed in a similar situation, he would not repeat his misconduct.
35. The Tribunal had regard to the impact on Dr Mattock caused by his perception regarding his working conditions. It was that perception that explained in part why he had behaved in a way that was markedly different from his usual practice which was to do his best for patients. This mirrored the Tribunal's view at the impairment stage, documented in paragraph 33 of the determination. However, his personal circumstances did not excuse his dishonesty or his abuse of his position of trust.
36. The Tribunal considered Dr Mattock's reflective statement and noted that it appeared to be an open and genuine account. It took particular note of the following paragraphs:
- 2 – evidence of Dr Mattock's understanding of how his coercion and dishonesty reflected poorly on the medical profession;
 - 3 – evidence of his regret and remorse about his behaviour towards Patient A and the impact it had on not only her but also Mr B, her husband;
 - 9 – acknowledgement by Dr Mattock that his behaviour was *'wholly inappropriate'*;
 - 13 – Dr Mattock's deep regret over initiating the additional discussion with Patient A and assurance that he will not repeat this behaviour;
 - 15 – that he had now 'fully absorbed' the patient doctor in balance and how patients may view consultations from himself and
 - 16 – further evidence of Dr Mattock's deep remorse and pledge that there would be no repetition.
37. The Tribunal had careful regard to paragraph 25a of the SG which states, as an example of a mitigating factor:

'25. The following are examples of mitigating factors.

a Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it. This could include the doctor admitting facts relating to the case, apologising to the patient, making efforts to prevent behaviour recurring, or correcting deficiencies in performance or knowledge of English.'

38. The Tribunal decided that the gap in Dr Mattock's insight into his culpability and dishonesty, as highlighted in paragraph 38 of the Tribunal's determination on impairment, had been adequately addressed by his reflective statement. The Tribunal was satisfied that Dr Mattock had shown sufficient insight as to the seriousness of his behaviour and the consequences for patients, the public and the profession.
39. The Tribunal was satisfied that Dr Mattock acknowledged, and deeply regretted, the wider consequences of his actions. This included reflections on the impact of his behaviour on Patient A's husband, Mr B, and also on Patient A's subsequent trust in doctors.
40. The Tribunal also took into account that even though Dr Mattock had retired from practice in August 2019, he had attended training courses and workshops since then in order to gain insight, a better understanding of how to manage complaints and how to manage professional interactions.
41. The Tribunal was satisfied that Dr Mattock accepted his own culpability and that his remorse was genuine.
42. The Tribunal noted that Dr Mattock had suffered as a result of the adverse publicity surrounding his case, but it did not regard that as a mitigating factor as it was a consequence of his own actions.
43. In deciding what sanction, if any, to impose the Tribunal considered each of the options available, starting with the least restrictive.

No action

44. The Tribunal was invited by Mr Kark to take no action. It noted that such an approach following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances, and no specific submissions regarding exceptional circumstances were presented for consideration.
45. While the Tribunal did not doubt that Dr Mattock had suffered as a consequence of his behaviour, this could not be regarded as an exceptional circumstance and was not justification to take no action. His coercion of Patient A and his dishonesty were so serious, that public confidence in the profession could not be maintained if no action were taken.

Conditions

46. The Tribunal next considered whether to impose conditions on Dr Mattock's registration. In so doing, it bore in mind that any conditions imposed would need to be appropriate, proportionate, workable, and measurable. In light of its findings, the Tribunal determined that it would not be possible to formulate a set of appropriate or workable conditions which could adequately address the nature of Dr Mattock's misconduct.

Suspension

47. The Tribunal next considered whether it would be sufficient to impose a period of suspension on Dr Mattock's registration.

48. The Tribunal noted that in addition to Dr Mattock's dishonesty, he had also abused his position of trust, by coercing Patient A into withdrawing her complaint. Patient A had given evidence about the impact that had on her, which had been acknowledged by Dr Mattock in his evidence. The Tribunal had regard to the following paragraph of *Good Medical Practice (2013)* (GMP), as it previously had in paragraph 23 of its determination on impairment namely:

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

49. Having considered Dr Mattock's evidence, the Tribunal concluded that there was no risk of repetition and accordingly, there was no risk to the well-being of patients. Whilst there was no risk to the health safety and well-being of the public, should Dr Mattock ever return to the medical profession, the Tribunal was in no doubt that Dr Mattock's misconduct was sufficiently serious that action was required for it to be able to fulfil the second and third limbs of its statutory overarching objective, namely 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.

50. Although Dr Mattock's actions represented a serious departure from the provisions of GMP, the Tribunal acknowledged that there were several strong mitigating factors present in this case, as outlined above. They noted that this was an isolated incident in a long career.

51. The Tribunal considered paragraph 108 of the SG, which states:

'108. Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.'

52. The Tribunal was of the view that, although Dr Mattock's actions constituted serious departures from GMP, it noted that this was an isolated incident in a long and unblemished career and was very much out of character from Dr Mattock's usual high standards and patient centred approach. The Tribunal concluded that the evidence, as a whole, indicated that there was no risk of repetition or threat to patient safety.
53. While the Tribunal acknowledged the seriousness of the misconduct, it was also mindful that erasure was not the only means of maintaining public confidence.
54. Considering the specific circumstances of this case and having carefully balanced the seriousness of Dr Mattock's misconduct and the mitigating factors as set out above, the Tribunal was satisfied that Dr Mattock's misconduct was not fundamentally incompatible with continued registration.
55. It determined that to erase Dr Mattock's name from the Medical Register would be unjustified and disproportionate on all the facts of this case.
56. However, the Tribunal determined that behaving dishonestly and abusing a position of trust warranted the maximum length of suspension it could impose, consistent with the need to maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for members of the profession.
57. The Tribunal was satisfied that a suspension of Dr Mattock's registration for 12 months would be sufficient, in the circumstances of this case, to send a clear message to Dr Mattock, the profession, and the wider public that this type of behaviour is abhorrent, and should a medical practitioner behave in this way, it will result in action being taken upon their registration.

Review hearing

58. The Tribunal considered whether it should direct a review shortly before the expiration of the period of suspension. In particular the Tribunal had regard to paragraph 164 of the SG which states: *'in some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing.'*
59. The Tribunal determined not to direct a review hearing in this case. It was clear to the Tribunal that the need to promote and maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for members of the profession will have been sufficiently served upon the expiration Dr Mattock's suspension for a period of 12 months. Accordingly, in these circumstances, and in the absence of any evidence of concerns regarding repetition, Dr Mattock's clinical practice or the safety of patients, the Tribunal was satisfied that a review hearing would serve no useful purpose and therefore determined not to direct such a hearing.

Determination on Immediate Order - 03/11/2021

1. Having determined that a 12 month suspension order was the appropriate sanction in Dr Mattock's case, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Grey submitted that in light of the Tribunal's findings, an immediate order of suspension was proper and just. In so doing, Mr Grey invited the Tribunal to consider paragraphs 172 and 173 of the SG which provide that:

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 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.

3. In relation to paragraph 173, Mr Grey acknowledged that there was no risk to patient safety in this case but he noted that there had been an abuse of trust. He submitted that an order was necessary to protect public confidence in the medical profession. He observed that the effect on patients would be limited as Dr Mattock was not currently working. He argued that the balance ought to fall in favour of an immediate order.
4. On behalf of Dr Mattock, Mr Kark submitted that an immediate order was not necessary. He added that an order would make little difference in any event as Dr Mattock had retired and had no intention of resuming practice.

The Tribunal's Determination

5. Having considered the submissions, and in light of all the circumstances of the case, the Tribunal determined that an immediate order of suspension was not necessary. The Tribunal bore in mind that there were no patient safety concerns in this case and it was satisfied that public confidence in the profession was addressed by the substantive sanction of 12 months suspension. An immediate order was not necessary in the public interest and would be disproportionate.

6. Dr Mattock's registration will be suspended 28 days from when notice of this decision is deemed to have been served upon him, unless he lodges an appeal.
7. That concludes the case.

ANNEX A

Determination on Adjournment – 23/03/2021

1. This 10-day hearing was due to commence on Monday 22 March 2021. However, Counsel for Dr Mattock, Mr Christopher Mellor, was unable to attend due to illness. His instructing solicitor, Mr Ravi Gupta, applied to the Tribunal for the hearing to be adjourned until Tuesday 23 March 2021 in anticipation that Mr Mellor would recover. Mr Grey, counsel for the GMC, did not object to Mr Gupta's application, but asked the Tribunal to note that two GMC witnesses would be lined up to attend the next day, having been arranged to attend on the first day of the hearing.
2. The Tribunal agreed to this adjournment, until the following day, out of fairness to Dr Mattock and in the interest of justice being done. It requested that efforts be made to investigate the option of an alternative representing counsel, in the event that Mr Mellor was not fit to work.
3. On Tuesday 23 March 2021, Mr Mellor remained unwell.

Submissions

4. On Tuesday 23 March 2021, Mr Gupta, made an application to the Tribunal for proceedings to be adjourned until Monday 29 March 2021. He submitted that this application was made jointly with the GMC.
5. Mr Gupta advised the Tribunal that while Mr Mellor's condition had improved from the preceding day, he was not well enough to attend proceedings on this day. He submitted that it would not be possible to guarantee Mr Mellor would be well enough to attend the following day. Mr Gupta submitted that it would be fairer to the witnesses to release them until everyone could be confident of starting their evidence. He submitted that it would only be fair to Dr Mattock to have a properly instructed counsel and for GMC to have a clear picture of timings for the proceedings.
6. Mr Gupta informed the Tribunal that he had made enquiries of the chambers of Mr Mellor, however, he was informed that no barrister was available at such short notice to take over the case this week.
7. Mr Grey submitted that it is unfortunate that Mr Mellor is unwell. However, the Tribunal, the GMC, the witnesses and Dr Mattock needed certainty on when proceedings can continue, and Mr Mellor remains ill at the current time. He noted that Mr Mellor may be well tomorrow, but might not. Mr Grey submitted that this has caused stress and anxiety for the GMC witnesses and further uncertainties may have an adverse impact on them. He also took into account that there are logistical considerations causing issues for Mr B and that Monday is the best time for Patient A and Mr B to give evidence.

8. Mr Grey submitted that it would be fairer to Dr Mattock for the case to be adjourned to next Monday because his counsel would have time to recover sufficiently, or for an alternative counsel to be located and instructed. He submitted that it would be fair to the witnesses, so that they are not asked to wait another day then potentially dismissed again. He submitted that it may well have the unfortunate effect of meaning there is insufficient time for proceedings to conclude. However, he believes that the Tribunal could still hear evidence and conclude the fact-finding stage next week and that it is in the public interest to utilise the time effectively in the particular circumstances.

Tribunal's Decision

9. The Tribunal had regard to the relevant Rule 29(2) of the GMC (Fitness to Practise) Rules 2004, ("the Rules") which provides:

"Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit."

10. The Tribunal noted that both parties were in agreement that it would be fair to adjourn proceedings until Monday 29 March 2021.
11. The Tribunal took into account that the delays, to date, may have had an adverse impact of Patient A and Mr B and that further delays would probably have a detrimental impact. Therefore, it was in their best interest to have a set time when they could be confident of being called to give evidence. It is also fairer to the GMC to set a day when proceedings can reliably continue.
12. The Tribunal determined that it would be fair, appropriate, in the public interest, in the interest of the witnesses and in the interest of justice to allow Dr Mattock sufficient time to secure appropriate representation and to set a time to start witness evidence.
13. The Tribunal requested independent medical information regarding Mr Mellor being well enough to participate in the hearing from Monday (with any reasonable adjustments that might assist this) and also be fit enough to be able to see the case through to conclusion.
14. Therefore, the Tribunal determined to grant the joint application to adjourn proceedings until 9.30am on Monday 29 March 2021.

ANNEX B

Determination on Adjournment – 29/03/2021

1. The Tribunal determined to grant a joint application from parties on 23 March 2021 to adjourn proceedings until 29 March 2021. The Tribunal had requested XXX determine whether he was fit to continue representation or alternative representation be secured, if he was not, to continue with the case on Monday 29 March 2021.
2. On Monday 29 March 2021, Mr Mellor explained that his health had much improved last week but that XXX it was not possible to be certain as to whether this would be sustained from Wednesday 24 March 2021. Mr Mellor explained that on Tuesday 23 March 2021, following the adjournment, those representing Dr Mattock had secured alternative counsel to start Monday 29 March 2021. However, Mr Mellor said that as his condition had sufficiently improved from Wednesday 24 March 2021 onwards and XXX, alternative counsel was released.
3. However, after Mr Mellor had travelled to Manchester on Sunday 28 March 2021 his symptoms returned such that on the morning of Monday 29 March 2021, he was not fit to continue representing Dr Mattock.

Submissions

4. Mr Mellor made an application to the Tribunal under Rule 29(2) of the Rules for proceedings to be adjourned until Wednesday 31 March 2021. He submitted that he would not be able to continue working effectively on Monday 29 March 2021. Mr Mellor profusely apologised for the further interruption to proceedings, but the relapse of his symptoms was unexpected.
5. XXX
6. Dr Mattock's representatives had made efforts to secure alternative counsel to represent Dr Mattock for the remainder of proceedings. Unfortunately, the counsel secured previously was not available until Wednesday 31 March 2021, and would need to time to prepare, therefore, he would not be ready for witness evidence to be heard until Thursday 1 April 2021. Further, despite contacting five or six chambers, Dr Mattock's instructing solicitors were unable to find suitable counsel available sooner.
7. Taking into account that Mr Mellor was not currently well enough to represent Dr Mattock, Mr Mellor requested an adjournment until Wednesday 31 March 2021, in order to (1) XXX and (2) inform the Tribunal whether suitable alternative counsel had been secured. Therefore, this new counsel could be instructed and ready for the case to be opened on Wednesday 31 March 2021, with a few to evidence being taken on Thursday 1 April 2021.

8. Mr Mellor submitted that Dr Mattock was very keen for these proceedings to continue and any progress that can reasonably be made should be. Mr Mellor submitted that it would be unfair to proceed at this point while Dr Mattock does not have a representing counsel who is fit enough to perform to the best of his abilities, including questioning the witnesses. He submitted that it would be fair to Dr Mattock to allow time to secure alternative representation or XXX. He submitted that it would be unfair to prejudice Dr Mattock because he, Mr Mellor, was ill. Mr Mellor also submitted that it would be fair to the witnesses, after a number of delays, to have a set day when they will have either an alternative counsel or Mr Mellor would be fit to continue.

9. Mr Grey submitted that the GMC does not oppose the application to adjourn until Wednesday 31 March 2021, as there was nothing else that could be done in the next two days as Mr Mellor was not well enough to continue and no alternative counsel had been secured. He acknowledged that it was fair to Dr Mattock to have representation. However, with no disrespect intended to Mr Mellor, he added that it was unacceptable that those instructing Dr Mattock had failed to secure representation for that day, despite the Tribunal's determination on adjourning on Monday 23 March 2021 to do that.

10. Mr Grey submitted that it would be unfair on the GMC and unfair on members of the public if these proceedings were to adjourn without any progress being made, because two weeks had been set aside for these proceedings and progress should be made.

Tribunal's Decision

11. The Tribunal had regard to the relevant Rule 29(2) of the Rules which provides:

“Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.”

12. The Tribunal noted that both parties were in agreement that it would be fair to adjourn proceedings until Wednesday 31 March 2021, because Mr Mellor was not well. The Tribunal accepted that it would be unfair to Dr Mattock to continue on Monday 29 March 2021, if he did not have counsel to represent him.

13. The Tribunal was concerned that Mr Mellor was not well enough to continue and XXX which had twice prevented him from participating fully. It is conscious that Patient A and Mr B have been ready to give evidence three times in eight days only to be stood down, on the day, each time. The Tribunal does not intend to request attendance from the witnesses on Wednesday 31 March 2021 as it cannot be sure that the hearing will proceed.

14. Therefore, the Tribunal determined it would be fair, and in the interests of the GMC, the public and Dr Mattock, to adjourn until Wednesday 31 March 2021 to allow (1)

alternative counsel to be instructed, which would allow any admissions from Dr Mattock to be taken and that Mr Grey could open his case (2) XXX. The Tribunal formed the view that the oral evidence of Patient A and Mr B should be heard on Thursday 1 April 2021, to avoid them being invited to give evidence and then stood down again. As Mr Mellor XXX is not currently fit to work, the Tribunal has worked on the assumption that alternative counsel is required.

15. Therefore, the Tribunal determined to grant the application from Mr Mellor to adjourn proceedings until 9.30am on Wednesday 31 March 2021.