MPTS Medical Practitioners Tribunal Service

Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 10/07/2023 – 21/07/2023
01/09/2023 - 05/09/2023

Medical Practitioner's name: Dr Daniel COVENTRY

GMC reference number: 7515747

Primary medical qualification: BM BCh 2016 Oxford University

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

Summary of outcome

Suspension, 6 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Miss Samantha Gray
Lay Tribunal Member:	Mrs Debbie Hill
Medical Tribunal Member:	Dr David Mabin

Tribunal Clerk:	Ms Maria Khan

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Stuart Coventry
GMC Representative:	Ms Chloe Fairley, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 17/07/2023

Background

1. Dr Coventry qualified in Medicine from Oxford University in 2016. At the time of the events Dr Coventry was working as a FY2 at Western Sussex NHS Trust ('the Trust') at its Worthing site. Dr Coventry joined the Trust in December 2017 after completing his FY1 in Brighton. Dr Coventry commenced the FY2 placement in December 2017, as opposed to August 2017, due to a four-month extension to the FY1.

2. The allegation that has led to Dr Coventry's hearing can be summarised as that, while working as a FY2 at the Trust, Dr Coventry undertook paid private work on various dates between 18 April 2018 and 13 October 2018 whilst on paid periods of sickness absence from his role at the Trust, knowing he was not permitted to do so.

3. In February 2018, due to Dr Coventry's frequent sick leave and failure to adhere to the Trust sickness procedures, concerns were raised with Miss A, Consultant Surgeon at Worthing Hospital and FY2 Lead. Due to the concerns raised, Miss A explained the sickness reporting procedure to Dr Coventry including that HR and Dr Coventry's line manager needed to be informed of his absence in future.

4. On 16 March 2018, a Progress Review Meeting was held by Miss A in her capacity as FY2 Lead. Dr Coventry was present, along with Mr B, Director of Medical Education. During the meeting Mr B addressed the concerns raised that Dr Coventry was not following protocol in relation to his sickness absences. Further reference was made to the correct process and it was agreed that Dr Coventry would access *'StaffNet'* to read the Trust's policies regarding sick leave protocol and who to inform should he take further sick leave. It was also agreed that Dr Coventry would confirm with Miss A and/or Mr B when he had read the policies.

5. Following a worsening of Dr Coventry's sickness absences and ongoing failure to adhere to the reporting procedures, concerns were escalated by Mr B to HR, which prompted

a Maintaining High Professional Standards ('MHPS') investigation in early 2019. During the investigation it was found that Dr Coventry had undertaken private aesthetic work whilst on sick leave and that the private work related to two companies: DC Aesthetics, a business owned by Dr Coventry; and A New You. This was based on information from social media.

6. In view of the findings of the MHPS investigation, a disciplinary hearing was held on 9 December 2019. It was found that Dr Coventry was guilty of gross misconduct as he had failed to follow Trust procedures for reporting sickness absence and had also undertaken private work while on sick leave. A final stage warning was issued but by then Dr Coventry had already left employment at the Trust.

7. The initial concerns were raised with the GMC on 14 February 2020 by Dr C, Medical Director at the Trust at the time of the events.

The Outcome of Applications Made during the Facts Stage

8. On 10 July 2023, Day 1 of the hearing, the Tribunal granted Dr Coventry's application made pursuant to Rule 33 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that Dr Coventry's father, Mr Stuart Coventry, be permitted to represent him at this hearing. The Tribunal's full decision on the application is included at Annex A.

9. On Day 2 of the hearing, 11 July 2023, the Tribunal granted Dr Coventry's application made pursuant to Rule 34(1) of the Rules, that he be permitted to adduce an addendum to his witness statement. A GMC witness, Ms D, was unable to give oral evidence due to ill-health. Both parties agreed that rather than the GMC make an application to admit Ms D's witness as hearsay, which would have been opposed, it would be fair, proportionate and pragmatic to allow Dr Coventry the chance to address any points he would have been able to question the witness about, had she been well enough to appear.

10. The Tribunal concluded that there was no prejudice caused to either party and the evidence was likely to be relevant to the matters to be determined. Accordingly, the Tribunal concluded that it was fair to admit the further statement into evidence.

11. On Day 3 of the hearing, 12 July 2023, the Tribunal granted Dr Coventry's application made pursuant to Rule 34(1) of the Rules, to adduce emails relating to his sickness absence. The GMC did not oppose the application. The Tribunal considered it fair to introduce the evidence as it would allow Dr Coventry to show he had reported some previous absences. The Tribunal concluded that there was no prejudice caused to either party and the evidence was likely to be relevant to the matters to be determined. Accordingly, the Tribunal concluded that it was fair to admit the statement into evidence.

The Allegation and the Doctor's Response

12. The Allegation made against Dr Coventry is as follows:

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

1. Whilst on periods of paid sickness absence from your role at Western Sussex NHS Trust ('the Trust') between 18 April 2018 and 13 October 2018, you undertook paid private work at:

   a. A New You, on one or more of the dates set out in Schedule 1;
   To be determined

   b. DC Aesthetics, on one or more of the dates set out in Schedule 2.
   To be determined

2. You knew that you were not permitted to undertake private work whilst you were on paid sickness absence from the Trust.
   To be determined

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

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

The Facts to be Determined

13. In light of Dr Coventry's response to the Allegation made against him the Tribunal is required to determine the Allegation in its entirety.

Witness Evidence

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

- Miss A, Consultant Surgeon and FY2 lead at Worthing Hospital, by video link. Miss A also provided a witness statement dated 16 March 2021;
- Dr C, Medical Director at the Trust at the time of the events, by video link. Dr C also provided a witness statement dated 10 May 2023;
- Ms E, owner of 'A New You', by video link. Ms E also provided a witness statement dated 10 February 2022.

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

- Ms D, HR advisor at the Trust, dated 25 February 2021;
- Ms F, Medical Staffing Manager, Medicine and Women and Children's division at Worthing Hospital, dated 17 March 2022.

16. Dr Coventry provided his own witness statements dated 27 June 2023 and 10 July 2023, and also gave oral evidence at the hearing.

Documentary Evidence

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

- The Trust's Health and Wellbeing Policy, dated June 2014;
- The Trust's Health and Wellbeing Policy, dated March 2018;
- Minutes of Progress Review Meeting, dated 16 March 2018;
- Copies of Dr Coventry's absences, sickness, and rotas, various dates;
- The Trust's Investigation Report, dated 16 May 2019, including various appendices;
- Screenshots from DC Aesthetics Facebook pages, undated;
- Tracking Scope for Working Doctors, dated May 2019;
- List of dates Dr Coventry worked at 'A New You' clinic in 2018 and 2019;
- Copies of Worthing Hospital emails regarding dates Dr Coventry may have been on the rota to work, dated 25 August 2021;
- Copies of Worthing Hospital internal emails confirming dates Dr Coventry was or was not rostered to work, dated 31 August 2021;
- Email exchange between Dr Coventry and a Junior Doctor Co-ordinator, dated 20 April 2018;
- Email from Dr Coventry reporting sickness absence, dated 12 October 2018.

The Tribunal's Approach

18. In reaching its decision on the facts the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Coventry 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. Neither the seriousness of the allegation nor the seriousness of the consequences should make any difference to the standard of proof to be applied.

19. In considering the evidence before it the Tribunal should have regard to the whole of the evidence and form its own judgement about the witnesses, and which evidence is reliable and which is not. Dr Coventry has given evidence in this matter. The Tribunal must judge his evidence by precisely the same fair standards as it applies to any other evidence in the case.

20. It is for the Tribunal to decide what weight it attaches to evidence before it. The fact that a doctor has denied a number of the allegations cannot be a factor to be held against him when assessing his evidence. The Tribunal's role is to determine if the denial is supported or undermined by the evidence – *Okpara v GMC* [2019] EWHC 2624 (Admin).

21. The High Court decisions of *Dutta v GMC* [2020] EWHC 1974 (Admin) and *Khan v GMC* [2021] EWHC 374 (Admin) make it clear that assessing the credibility of a witness should not be based exclusively on a witnesses' demeanour but their veracity should be tested by reference to objective facts proved independently in their evidence, in particular by reference to the documents in the case. The Tribunal should make a rounded assessment of a witness's reliability and consider all of the evidence before it before coming to a conclusion about a witness's credibility. This could include conflicts in evidence with another witness, denials of the allegations and reasons why they could not be true. The Legally Qualified Chair ('LQC') reminded the Tribunal that in the case of *Khan* it was also said that it is open to tribunals not to rule out the whole of a witness's evidence based on credibility; credibility can be divisible.

22. A further matter that The Tribunal should bear in mind when considering the evidence of any witness in this case, including the evidence of the doctor, is the extent to which the passage of time may have affected a witness's memory. The Tribunal should make due allowance for the way in which the passage of time may have affected the recollections of any of the witnesses and those of the doctor.

23. In relation to witnesses generally, the Tribunal should bear in mind that an honest witness can be mistaken, and a mistaken witness is not necessarily wrong about every fact.

24. As to individual pieces of evidence the Tribunal is entitled to draw proper inferences, that is to come to common sense conclusions based upon the evidence which it accepts as reliable; but it must not speculate. Similarly, it must not speculate about what other evidence there might have been.

25. The Tribunal should only draw an inference if it can safely exclude other possibilities - *Sony v GMC* (2015) EWAC 0364 Admin.

26. In dealing with witness evidence procedural fairness requires that a tribunal gives reasons for any adverse findings it makes against a doctor. If the tribunal prefers another witness's version of events over the that of the doctor's, then it should make clear why the doctor's evidence has been rejected; if the tribunal doubts the doctor's credibility whether generally or by reference to specific allegations, it should expressly say so and give its reasons for doing so, even if only relatively briefly.

27. In this matter there is an allegation of dishonesty. When considering matters of dishonesty, the Tribunal should take into account the principles set out in *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords Club)* [2017] UKSC 67. The Tribunal must first ascertain, subjectively, the actual state of Dr Coventry's knowledge or belief as to the facts and should then decide whether his conduct was honest or dishonest by applying the objective standards of ordinary decent people. There is no requirement that the individual must appreciate that what they have done was, by those standards, dishonest.

28. When considering the test for dishonesty in *Ivey*, the objective standards of ordinary and decent people must involve the expectation that registered professionals will have at least some regard to the professional standards under which they are required to operate, pursuant to a system of regulation that is designed to protect the public.

29. The Tribunal should take into account, in making its determinations of fact, the good character of the doctor. Dr Coventry has co-operated throughout with the investigations of the complaints, the subsequent GMC investigation and this Tribunal. Whilst good character is not a defence to the allegations denied the evidence of good character counts in the doctor's favour in two ways: first, the doctor's good character supports his credibility and is therefore something the Tribunal should take into account when deciding whether they believe the doctor's evidence (the 'credibility limb'); and secondly, the doctor's good character may mean that he is less likely to have committed the allegations cited (the 'propensity limb').

30. It is for the Tribunal to decide what weight it gives to the evidence of good character, taking into account everything it has heard about the doctor.

31. In considering the facts with regard to each paragraph of the allegation the Tribunal should assess and decide each head of the allegations and each sub-head separately. It is, of course, open to the Tribunal to find some parts, but not others, proved.

32. The Tribunal should give reasons for its decisions and findings. Its reasons should be sufficient to ensure that its decision is clear, and should demonstrate how it has reached its decision in such a way that the parties, and any other person scrutinising the reasons, can understand clearly why the parties were successful in making their case or not.

The Tribunal's Analysis of the Evidence and Findings

33. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

Paragraph 1(a) and 1(b)

34. When determining Paragraph 1,the Tribunal took into account that there was no dispute from Dr Coventry that he had undertaken paid private work on the days set out in Schedule 1 and Schedule 2.

35. Further, the Tribunal had regard to the Trust's Health and Wellbeing policies that were in force as of June 2014 and then March 2018, specifically the parts clarifying how sickness absence days were calculated.

2014

'Medical - There are two categories of illness:

a. Short Term – this is absence of less than 28 calendar days
b. Long Term – any absence of 28 or more calendar days

N.B. "Days" here refers to the number of continuous calendar days over which absence extends, not just the days when a member of staff would have been due to be at work. The number of days absence is calculated from the first day of absence through to the date of return to work.'

2018

'Sickness - There are two categories of sickness absence:

- *Short Term – this is absence of less than 28 calendar days*
- *Long Term – any absence of 28 or more calendar days*

N.B. "Days" here refers to the number of continuous calendar days over which absence extends, not just the days when a member of staff would have been due to be at work. The number of days absence is calculated from the first day of absence through to the date of return to work.'

36. The Tribunal noted that while there was a slight variation in the words used, the essence had not changed and it was clear that the Trust calculated sickness absence in continuous calendar days, commencing the first day of absence to the date of return to work, including non-working days.

37. The Tribunal considered the evidence of Dr Coventry that he believed that because the paid private work was undertaken whilst he was not rostered to work for the Trust, it did not fall within a period for which he was contractually paid. However, the Tribunal considered this reasoning to be naïve, it was common sense that if you were away from work as a result of sickness in respect of one employer, it would not be prudent to undertake other work in the same time period. Nevertheless, the Tribunal considered the policy on how sick leave absences were calculated to be clear.

38. The Tribunal determined that the days set out in Schedules 1 and 2 fell in periods of paid sickness absence.

39. Accordingly, the Tribunal found Paragraph 1 of the Allegation proved in its entirety.

Paragraph 2

40. In relation to paragraph 2 the Tribunal considered Dr Coventry's evidence in relation to his lack of induction on joining the Trust in December 2017 and in particular the fact that he was not aware of the existence of the Health and Wellbeing Policy or indeed the provisions of that Policy specifically relating to undertaking private work whilst on paid sickness absence. Furthermore, the Tribunal also took into account the evidence it had heard from both Miss A and Dr Coventry in respect of how XXX impacted his routine and practice.

41. The Tribunal also took into account the evidence of Dr C, whom they considered to be honest and credible, that as a result of the nature of the work, it was unlikely that any doctor would have the necessary time to sit down and read every policy. The Tribunal accepted that it was more likely than not that, as a result of the very basic induction Dr Coventry received on joining the Trust, he would not have been aware of, or indeed read the Health and Wellbeing policy at the time of his induction.

42. However, the Tribunal were cognisant that on 16 March 2018 Dr Coventry attended a review meeting with Miss A and Mr B to discuss amongst other things, Dr Coventry's sickness absence. In this regard, the Tribunal considered the minutes of that meeting. In particular, the Tribunal noted that during the meeting Dr Coventry was asked to "*access StaffNet to read the Trust's policies regarding sick leave and who to inform should he take further sick leave."* Furthermore, Dr Coventry agreed a specific action point to "*look at StaffNet to read the Trust's policies with regard to sick leave protocol and to inform [Mr B]/[Miss A] when he had done this."*.

43. Accordingly, the Tribunal considered that, as of 16 March 2018, Dr Coventry was fully aware of the existence of policies relating sickness absence and that he was required to read them to ensure that his future conduct relating to any sickness absence was taken in accordance with such policies.

44. The Tribunal further considered Dr Coventry's evidence in relation as to how XXX affected his conduct in relation to carrying out the agreed action point arising from the 16 March 2018 meeting. In particular, the Tribunal noted that Dr Coventry stated that XXX.

45. The Tribunal were cognisant of the evidence of Miss A in relation to the meeting of 16 March 2018 and her confirmation that following the meeting she knew emails had been sent to Dr Coventry where actions had not been undertaken and they were being chased. She further stated that she was not surprised that they were not being actioned. The Tribunal considered Miss A to be an honest and credible witness and had no reason to question her recollection of events following the meeting on 16 March 2018. The Tribunal further noted that in cross examination Dr Coventry concurred with Miss A's recollection of him being chased to complete action points arising and stated that "*Miss A asked me to look more than once".* However, the Tribunal also noted that in later questioning undertaken by Mr Coventry, Dr Coventry suggested that there had been no follow up after the meeting. On the balance of probabilities the Tribunal concluded that it was more likely than not, based on the evidence of Miss A and Dr Coventry's recollections under cross-examination, that follow up emails had been sent to Dr Coventry reminding him of the need to complete the action point.

46. The Tribunal also had regard to paragraphs 11 and 12 of *Good medical practice* (2013) ('GMP'), which state:

> *11 You must be familiar with guidelines and developments that affect your work.*

12 You must keep up to date with, and follow, the law, our guidance and other regulations relevant to your work.

47. The Tribunal concluded that it was the duty of a doctor to comply and be up to date with the guidances and guidelines that were relevant to their work and that the Trust's Health and Wellbeing policy was an important policy designed to protect the wellbeing of doctors.

48. The Tribunal was of the view that Dr Coventry had had sufficient time to read the policy between the meeting and the next sickness absence and that this period was not so long that Dr Coventry would have forgotten this was an action point, particularly as he was being chased and reminded that it was necessary for him to read the policies.

49. The Tribunal took into consideration that Dr Coventry took little responsibility for his own conduct and learning, instead choosing to place this responsibility on the Trust. It took into account that Dr Coventry was given a specific action point and he did not familiarise himself with the policies.

50. The Tribunal concluded that notwithstanding XXX and the lack of a formal induction, common sense would dictate that Dr Coventry could have done more to familiarise himself with the policy once being alerted to it and after several reminders to do so. Had he read the policy as instructed, he would have seen that calendar days are calculated as sickness days even if he was not working at the Trust on those days. Had he been uncertain about any aspects of the policy when he read it, he could have sought advice and clarification from HR. It was also clear to the Tribunal that even though the times when Dr Coventry worked on those days were outside normal working hours, it was still a breach of policy. Further, had Dr Coventry not chosen to disregard the action point to read the relevant policies he would have been aware that there were also provisions relating to working elsewhere during, and after, sickness absence. Namely:

2014

'6.6.1 Where staff carry out work during a period of sickness absence for any other employer or organisation, whether in an paid or unpaid capacity, they may be at risk of committing fraud. This includes any work carried out on a self-employed basis. In exceptional circumstances, where staff believe it is appropriate for them to continue to carry out work elsewhere during a period of sickness absence from the Trust, they should seek advice from their manager. The manager will confirm in writing whether they are in agreement with this, in line with advice from Occupational Health and Human Resources. In addition, staff are also unable to undertake any temporary/bank/overtime work for the Trust in any area for the duration of the sickness absence, during a phased return or for a period of 7 calendar days after a return to full duties. Failure to adhere to this will be managed under the Staff Discipline policy and may be considered fraudulent behaviour.'

2018

'5.6.1 When an employee is unable to attend work due to sickness, they must not undertake work for any other employer or organisation, whether in a paid or unpaid

capacity, or they may be at the risk of committing fraud. This include any work carried out on a self-employed basis.

5.6.2 In exceptional circumstances, it may be considered appropriate for work to be conducted whilst sick from the Trust. In an employee believes it is appropriate for them to continue to carry out work elsewhere during a period of sickness absence from the Trust, this must be confirmed in writing by a medical practitioner and agreed with their manager and Occupational Health in advance of such work. The manager will confirm in writing whether they are in agreement with this, in line with advice from Occupational Health and the Human Resources department.'

51. The Tribunal applied the first test as set out in *Ivey* and concluded that as a result of meeting on 16 March 2018 Dr Coventry was aware of the existence of guidelines relating to sickness absences, he was aware that he had not been complying with them and as a result of the meeting agreed to go away and read them. However, in spite of being reminded to undertake the task on a number of occasions XXX. This was in spite of having a spell of sickness within a month of the meeting which should have triggered him to read the policy.

52. Accordingly, the Tribunal considered that Dr Coventry had no reasonable excuse for being unaware of the obligations that applied to him in relation to his sickness absence. The fact that he chose not to read the policies relating to sickness absence was not a defence to justify his ignorance of the policies that applied to him and each of his colleagues. He knew of the existence of the policies, he knew they applied to him, he knew he was required to read them and familiarise himself with them to ensure he amended his future conduct. The Tribunal considered that it was reasonable to expect him to be familiar with these policies following the meeting on 16 March 2018 and as a result he should have known, and been clear on, the guidelines relating to sickness absence, including the provisions in relation to working elsewhere while on paid sickness absence.

53. Accordingly, the Tribunal found Paragraph 2 of the Allegation proved.

<u>Paragraph 3</u>

54. The Tribunal was of the view that a reasonable person, taking into account the issues set out above, would know they should not be working elsewhere while on sickness absence leave, particularly as a doctor had a duty under GMP to be aware of guidelines relating to their working practice.

55. In considering the findings in relation to paragraph 2, set out above, the Tribunal applied the test as set out in *Ivey.* In particular, the Tribunal considered that on the basis of the rationale set out above any reasonable person looking objectively at the facts would consider his actions to be dishonest.

56. Accordingly, the Tribunal found Paragraph 3 of the Allegation proved.

The Tribunal's Overall Determination on the Facts

57. The Tribunal has determined the facts as follows:

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

1. Whilst on periods of paid sickness absence from your role at Western Sussex NHS Trust ('the Trust') between 18 April 2018 and 13 October 2018, you undertook paid private work at:

    a. A New You, on one or more of the dates set out in Schedule 1;
    Determined and found proved

    b. DC Aesthetics, on one or more of the dates set out in Schedule 2.
    Determined and found proved

2. You knew that you were not permitted to undertake private work whilst you were on paid sickness absence from the Trust.
Determined and found proved

3. Your actions as described at paragraph 1 were dishonest by reason of paragraph 2.
Determined and found proved

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

Determination on Impairment - 21/07/2023

58. 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 Coventry's fitness to practise is impaired by reason of misconduct.

The Outcome of Applications Made during the Impairment Stage

59. On 18 July 2023 the Tribunal granted Dr Coventry's application, made pursuant to Rule 34(1) of the Rules that further evidence be adduced for this stage of the hearing. The Tribunal's full decision on the application is included at Annex B.

The Evidence

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

61. The Tribunal also received the following documentation from Dr Coventry:

- An email from the GMC solicitor to the MPTS Case Manager in advance of the Case Management pre-hearing meeting to be held on 1 November 2022, dated 25 October 2022;
- Dr Coventry's response to the GMC investigation, dated June 2021.

Submissions

<u>On behalf of the GMC</u>

62. On behalf of the GMC, Ms Chloe Fairley, Counsel, submitted that the Tribunal would have in mind the statutory overarching objective when considering impairment. This requires the Tribunal 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.*

63. Ms Fairley also referred the Tribunal to the relevant case law when determining the issues of misconduct and impairment.

64. Ms Fairley submitted that while this was not a case in which patients were at unwarranted risk of harm, the questions that should be asked were in relation to the reputation of the medical profession, whether the fundamental tenets of the profession had been breached, and whether Dr Coventry was liable to behave dishonestly in the future. Ms Fairley added that it was essential to not lose sight of the fundamental considerations of the need to protect the public but also to promote and uphold proper standards of conduct so as to maintain confidence in the profession.

65. Ms Fairley then drew the Tribunal's attention to the paragraphs of GMP that, she submitted, were engaged in this case.

66. Ms Fairley submitted that the misconduct in this case was a clear example of serious misconduct. It was not a single isolated omission or error of judgement that could be quickly rectified, rather the misconduct involved repeated occasions of dishonest conduct over a period of six months, during which Dr Coventry had had a number of opportunities where he could have been honest. However, Dr Coventry had put his own personal and financial interests ahead of his duties to the Trust.

67. Ms Fairley submitted that the Trust had been understanding and accommodating of Dr Coventry's XXX and the meeting of 16 March 2018 had been set up to address these concerns directly with Dr Coventry.

68. Turning next to dishonesty, Ms Fairley submitted that where it was repeated, as in this case, this represented serious misconduct. Dr Coventry's active dishonesty had brought the profession into disrepute, he had breached one of the fundamental tenets of the medical profession, and there had been clear and serious breaches of the principles set out in GMP.

69. Ms Fairley submitted that in terms of impairment, the Tribunal would, no doubt, be reminded that Dr Coventry should not be punished for his lack of admission, and he was entitled to defend his case. However, at present, there was no real insight demonstrated by Dr Coventry and he was yet to take responsibility for his actions. Ms Fairley further submitted that there was no evidence before the Tribunal that Dr Coventry had properly reflected on how his conduct affected the wider profession and its reputation.

70. Ms Fairley reminded the Tribunal of the concept that dishonest behaviour is difficult to remediate and submitted that in this case no steps had been taken to remediate the behaviour.

71. Ms Fairley submitted that Dr Coventry's repeated dishonest misconduct constituted serious misconduct. Ms Fairley stated that doctors held a position of privilege and trust in society and were expected to uphold proper standards of conduct. Members of the public were entitled to place complete reliance upon a doctor's honesty ,and the relationship between the profession and the public was based on the expectation that doctors would act with integrity at all times. Therefore, Ms Fairley submitted, dishonesty, even when there was no harm caused to patients, could undermine public trust and confidence in the profession as a whole.

72. Ms Fairley concluded her submissions by stating that this was a case where the second and third limbs of the overarching objective would be undermined if a finding of impairment were not made in the circumstances of this case.

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

73. On behalf of Dr Coventry, Mr Coventry submitted that Dr Coventry challenged the points raised in the GMC submissions relating to his past and current impairment, that his defence against the allegations suggested a lack of insight, and that there had been no remediation.

74. Mr Coventry submitted that Dr Coventry's defence was to the specific allegations that he undertook paid private work on various dates whilst on paid periods of sick leave, knowing that he was not permitted to do so.

75. Mr Coventry submitted that Dr Coventry was clear in his mind that he did not know he was not permitted to work whilst on paid sick leave and, therefore, believed that the Allegation was wrong. Dr Coventry could not let that go undefended and he had presented evidence to make his point. Dr Coventry had explained his beliefs at the time in the absence

of his knowledge and, after close inspection of the policies, raised the matter of ambiguities as to how they applied to the first part of the Allegation.

76. Mr Coventry submitted that Dr Coventry understood the findings of the Tribunal that he should have known, and should have taken steps to know, the Trust policies. Dr Coventry accepted it was his responsibility to read the policies as instructed and, had he done so, he could have asked any questions of an appropriate person regarding the meaning and application of the sickness policies.

77. Mr Coventry stated that Dr Coventry also understood the Tribunal's finding that his reasoning at that time of the underlying incidents in relation to there being no conflict in doing private work, whilst not rostered to do NHS work but off sick, was naïve and contrary to common sense. Dr Coventry understood how these findings led to the Tribunal's decision on dishonesty. Mr Coventry submitted that Dr Coventry's defence should not be considered to be him demonstrating a lack of insight.

78. Mr Coventry reminded the Tribunal that Dr Coventry had challenged some of the evidence presented against him, particularly that of Ms D, and submitted that Dr Coventry had presented his evidence honestly, with no intention to mislead the Tribunal.

79. Mr Coventry then went on to present examples of Dr Coventry's insight and remediation that, he submitted, would lead to the conclusion there was no current impairment. First, Dr Coventry had remained at Worthing Hospital until August 2019 and there had not been any further incidents of the inappropriate behaviour since the October 2018 incident. Mr Coventry also stated that there had been no further incidences in his subsequent employment.

80. Mr Coventry stated that in an investigation meeting held on 11 March 2019 with Dr Chris Smith, Ms D, and a BMA representative, Dr Coventry had shown insight into how XXX had affected his colleagues. Mr Coventry referred the Tribunal to the notes of the meeting and submitted that Dr Coventry had fully accepted his unacceptable behaviours. Mr Coventry then referred the Tribunal to the notes from a follow up meeting on 10 April 2019, with the same participants, in which Dr Coventry spoke of trying to be more professional and support his teams, as he had realised he had not been a supportive team member. Mr Coventry submitted that in the notes it also stated that Ms D said she was pleased that Dr Coventry had reflected on things.

81. Mr Coventry submitted that in the minutes of the Trust investigation report dated 16 May 2019, it was stated that Dr Coventry had been *"open and transparent"* in relation to his private work. Mr Coventry further submitted that Dr Coventry had accepted the outcome of the formal hearing in December 2019, a final written warning, and had accepted at that time also, that his behaviour was unacceptable.

82. Mr Coventry then referred the Tribunal to Dr Coventry's Rule 7 response in which, he accepted that his previous behaviours were against policy and he apologised for this in full.

Mr Coventry submitted that while Dr Coventry agreed he should not have undertaken private work while on sick leave from the Trust, he denied there was any dishonesty or intention to deceive, and he had apologised fully. Dr Coventry also had agreed retrospectively, in the Rule 7 response, that he should not have worked at A New You on the evening of 18 April 2018.

83. Mr Coventry submitted that at the time of the events, Dr Coventry had the mindset of a newly qualified FY2 doctor XXX. Dr Coventry accepted he was naïve and inexperienced and had no intention to behave dishonestly.

84. Mr Coventry submitted that Dr Coventry had moved on since that time and sought to mitigate the factors that had led to his behaviours. Dr Coventry accepted that XXX, it was his responsibility to address them, and he had XXX.

85. Mr Coventry stated to the Tribunal that Dr Coventry understood how XXX negatively impacted his work and he had sought to remedy this. Dr Coventry had researched XXX For example, he now used apps on his phone with multiple reminders to remember important tasks and, Mr Coventry submitted, these learned behaviours would ensure the errors made at Worthing Hospital would not reoccur.

86. Mr Coventry submitted that whilst the Tribunal's findings were that the events of 2018 constituted dishonesty under Ivey, Dr Coventry wished to emphasise that there had been no intention of deceiving or defrauding his employer or causing them any loss. Dr Coventry had not taken sick leave at any time in order to undertake private work and it had been shown in evidence that he did not make any financial net gain. Had he been knowingly dishonest, he would not have posted about his work on social media. Notwithstanding that, Dr Coventry accepted his actions had contravened Trust policy.

87. Mr Coventry stated that Dr Coventry understood and accepted his naivety and errors of judgement, and had apologised and learned the lessons from the events of 2018. XXX.

88. Mr Coventry submitted that there were no clinical concerns in this case, and never a risk of harm to the public or patients. Miss A and Dr C had both confirmed this, with Dr C stating the only impact was that when Dr Coventry was on sick leave there was extra pressure on his colleagues.

89. Mr Coventry concluded his submissions by stating that Dr Coventry accepted some of his past behaviours fell below the required professional standards but this was not the case now. There was no reason to consider that public confidence in the profession would be undermined if a finding of impairment were not made. Dr Coventry had demonstrated insight into the events of five years ago and had taken remedial steps, particularly in relation to XXX. There was no impairment of Dr Coventry's fitness to practise and no suggestion he would repeat his mistakes.

The Relevant Legal Principles

90. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone, taking into account the statutory overarching objective.

91. 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.

92. While there is no statutory definition of *'misconduct'* or *'impairment',* various legal authorities do provide the Tribunal with some guidance on these points.

93. In respect of misconduct, the case of *Cheatle v GMC* [2009] EWHC 645 (Admin*)* provided that misconduct must be serious rather than mere misconduct and it was determined in the matter of *Roylance v. GMC* (No 2) [2000] 1 AC 311 that the decision in every case as to whether the misconduct is serious has to be made by the Tribunal in the exercise of its own skilled judgment on the facts and circumstances in light of the evidence.

94. In relation to impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High Court in the case of *CHRE v NMC and P Grant* [2011] EWHC 927 (Admin). In particular, the Tribunal should be aware that one or more of the following features are likely to be present when a doctor's fitness to practise is found to be impaired in that he/she:

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; and/or

d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future

95. The Tribunal also had regard to the case of *Cohen v GMC* [2008] EWHC 581 (Admin) where Mr Justice Silber ruled that at the impairment stage a tribunal ought to take account of any evidence and/or any submissions from both the doctor and the GMC that the doctor's failing is "*easily remediable, second it has been remedied and third that it is highly unlikely to be repeated".*

96. When considering insight the Tribunal should consider the case of *Sayer v GOC* [2021] EWHC 370 Admin, where it was held that it is proper to take into account, when weighing up insight, the registrant's understanding of, and attitude towards, the underlying allegation. Furthermore, the attitude of the doctor to the events which gave rise to the specific

allegations against him is something which the Tribunal can take into account either in the doctor's favour or against him when it considers whether his fitness to practise is impaired.

97. The Tribunal should also take into account the relevant sections of the relevant edition of GMP in order to assist in considering the matter of impairment. As set out in the case of *Martin v GMC* [2011] EWHC 3204 (Admin), it may be helpful for the Tribunal to consider GMP to identify what standards of behaviour are expected of registered of doctors and what constitutes *“fitness to practise”*.

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

99. In setting out its determination the Tribunal should ensure that its decision is clear, and should demonstrate how it has reached its decision.

The Tribunal’s Determination on Impairment

Misconduct

100. In determining whether Dr Coventry’s fitness to practise is impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amount to misconduct.

101. Throughout its deliberations, the Tribunal took account of the statutory overarching objective of protecting the public, which includes protecting the health, safety, and wellbeing of the public, maintaining public confidence in the profession, and promoting and maintaining proper professional standards and conduct for the members of the profession.

102. The Tribunal considered that in this case the following paragraphs of GMP were engaged:

> *1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*
>
> *11 You must be familiar with guidelines and developments that affect your work.*
>
> *12 You must keep up to date with, and follow, the law, our guidance and other regulations relevant to your work.*
>
> *65 You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession.*

> *68 You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.*

103. The Tribunal was sympathetic towards Dr Coventry in respect of Saturday 13 October 2018. Dr Coventry had felt better by Friday 12 October and had worked the Saturday. The Tribunal was of the view that a reasonable member of the public looking at the facts and Dr Coventry's lack of knowledge of when sick leave started, would understand how Dr Coventry may had misunderstood that he was still technically on sick leave and should not be working elsewhere. However, the Tribunal also considered that in respect of the April and August incidents no such confusion could have possibly occurred because he had declared himself sick on the Friday and Monday of the weekends when he had worked on the Saturday.

104. The Tribunal took into account that Dr Coventry had breached fundamental tenets of the medical profession repeatedly over a period of time between April and October of 2018. He had been undertaking paid private work while on sick leave and this amounted to misconduct. The Tribunal was satisfied that fellow practitioners would find Dr Coventry's dishonest behaviour to be disreputable.

105. The Tribunal had regard to GMP and the fact that there were multiple clear breaches of principles that related to maintaining standards and expectations of honesty and integrity, and that any dishonesty could not be viewed as anything other than serious. The Tribunal found that Dr Coventry's actions in repeating the dishonest behaviours was a failure to act with honesty and integrity and had the potential of undermining public trust in him as well as in the wider profession.

106. The Tribunal concluded that Dr Coventry's repeated instances of undertaking paid private work while on sick leave conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct that was serious.

Impairment

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

108. In determining whether a finding of current impairment of fitness to practise was necessary, the Tribunal looked for evidence of insight, remediation and the likelihood of repetition, bearing in mind the overarching statutory objective. It considered that insight and remediation are important in order for a doctor to recognise areas of their practice and behaviour that require improvement, and to take appropriate and relevant steps to address them, thus reducing the likelihood of repetition.

109. The Tribunal took into account that there were no clinical concerns in respect of Dr Coventry's practice. However, having regard to the test as set out in *Grant*, the Tribunal

considered that limbs (b) to (d) of the test were engaged, and that Dr Coventry's dishonest behaviour had brought the medical professions into disrepute. By acting dishonestly, Dr Coventry had breached a fundamental tenet of the profession relating to acting with honesty and integrity.

110. The Tribunal took into account Dr Coventry's oral evidence in which he maintained that it had not been his responsibility to read the policies but stated that he felt there was a responsibility on the Trust to repeatedly remind him to do so. The Tribunal heard evidence that he had received written instructions following the meeting on 16 March 2018 and had been reminded by his supervisor. The Tribunal was of the view that this demonstrated a lack of responsibility and a lack of insight. The Tribunal concluded that the Trust had fulfilled its responsibility towards him. Dr Coventry had been pointed in the right direction and chose not to read the policies.

111. The Tribunal had regard to Dr Coventry's evidence in relation to putting clients at risk when he was treating them privately. It took into consideration that XXX and the Tribunal considered that there was an element of deception as Dr Coventry did not tell the management of A New You, or any of his private clients, that he had been off sick from work that day XXX. The Tribunal found Dr Coventry's evidence that he was more qualified than Ms E to determine whether he was fit enough to be treating clients also showed a lack of insight as to the impact of his decisions on others.

112. The Tribunal took into account Dr Coventry's evidence that he considered the private clients were not vulnerable patients and concluded that it was irrelevant that they were not vulnerable. Dr Coventry was still putting them at risk. In addition, for the same reason of attending work when still potentially infectious, he also put staff and colleagues at risk.

113. The Tribunal found that Dr Coventry displayed a lack of understanding of the implications of his actions, and the need for doctors to comply with policies and protocols that relate to their employment and area of practice, such as sickness policies.

114. The Tribunal considered Mr Coventry's submission that as far as the Trust was concerned there had been no loss or damage, and the only impact of Dr Coventry's actions was that there was additional pressure on his colleagues. The Tribunal determined that this demonstrated an ongoing failure to understand and appreciate the impact of his actions, and it was not acceptable to be paid by the public sector for a public service, then do private work after being unavailable for the public. Not only did this have an impact on colleagues but it also undermined the public perception of the profession.

115. The Tribunal was sympathetic to XXX and took into account Mr Coventry's submissions that Dr Coventry had taken steps to address and manage this. However, the submissions of a representative are not evidence and the Tribunal had no evidence before it that showed XXX Dr Coventry had received at the time of the events or subsequently. XXX.

116. The Tribunal accepted that there had been no more incidents of the dishonest behaviour since October 2018, and that Dr Coventry had stated several times during this hearing and previous investigation meetings that he accepted his behaviour. He also stated that he accepted and understood the Tribunal's findings at the previous stage. However, Dr Coventry still maintained that he did not view his actions as dishonest on his understanding and beliefs and there was little evidence to show that Dr Coventry had reflected on his actions. The Tribunal took into account Dr Coventry's oral evidence in which he stated that in a Trust investigation meeting he had said he accepted his wrongdoings for the sake of *"just moving on".*

117. The Tribunal found that Dr Coventry had the ability to show some insight and that he appeared to be developing the process of reflection. This needed to be explored further, and the Tribunal was not convinced that Dr Coventry had yet reached sufficient understanding or the level of reflection of the wider impact on his actions and how the average person would see the harm caused to the profession.

118. The Tribunal recognised that dishonesty is a breach of a fundamental tenet of the profession. Being honest and trustworthy and acting with integrity is at the heart of medical professionalism. Dr Coventry had not fully admitted his wrongdoings and any insight shown was diminished by the fact that he still placed responsibility on the Trust for some of his misconduct.

119. While the Tribunal was in no doubt that Dr Coventry has the capacity to develop full insight into his behaviour, at this stage it had concerns that the lack of insight and remediation meant there was a risk of repetition of the misconduct. Until Dr Coventry developed full insight into his misconduct, the Tribunal could not say with certainty that repetition was unlikely.

120. The Tribunal had regard to the fact that the public expects to be able to trust doctors. The public expects doctors to act with integrity and to adhere to the principles set out in GMP. Where doctors fail to do so in a significant way, public trust in the profession is undermined and a finding of impairment of fitness to practise is required. While the Tribunal accepted that no direct harm had been caused to patients, the second two limbs of the overarching objective were engaged. The Tribunal was in no doubt that public confidence in the medical profession and the need to uphold proper standards for that profession would be adversely affected if it were not to make a finding of impairment in this case.

121. The Tribunal, therefore, determined that Dr Coventry's fitness to practise is currently impaired by reason of misconduct.

Determination on Sanction - 05/09/2023

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

The Outcome of Applications Made during the Sanction Stage

123. On day 11 of the hearing, 1 September 2023, the Tribunal granted Dr Coventry's application, made pursuant to Rule 34(1) of the Rules, that further evidence be adduced for this stage of the hearing. The evidence included a 'Reflective Statement', XXX The GMC had no objection to this evidence being adduced and the Tribunal determined there was nothing controversial in allowing the evidence, and that it was fair, reasonable and proportionate for it to be admitted.

The Evidence

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

125. The Tribunal received further evidence on behalf of Dr Coventry including:

- XXX;
- Dr Coventry's Reflective Statement, dated 20 July 2023;
- XXX;
- XXX.

Submissions

On behalf of the GMC

126. On behalf of the GMC, Ms Fairley opened her submissions by referring the Tribunal to paragraphs 14, 16, 17 and 19 of the Sanctions Guidance (November 2020) ('the SG'). These state:

> *14 The main reason for imposing sanctions is to protect the public. This is the statutory overarching objective, which includes to:*
>
> *a protect and promote the health, safety and wellbeing of the public*
>
> *b promote and maintain public confidence in the medical profession*
>
> *c promote and maintain proper professional standards and conduct for the members of the profession.*
>
> *16 Sanctions are not imposed to punish or discipline doctors, but they may have a punitive effect.*
>
> *17 Patients must be able to trust doctors with their lives and health, so doctors*

> *must make sure that their conduct justifies their patients' trust in them and the public's trust in the profession (see paragraph 65 of Good medical practice). Although the tribunal should make sure the sanction it imposes is appropriate and proportionate, the reputation of the profession as a whole is more important than the interests of any individual doctor.*
>
> ***19** Good medical practice is the benchmark that doctors are expected to meet subject to any mitigating or aggravating factors. Action is taken where a serious or persistent breach of the guidance has put patient safety at risk or undermined public confidence in doctors.*

127. Ms Fairley next referred to the mitigating factors in this case and acknowledged that at the time of the events, Dr Coventry had been XXX. Ms Fairley acknowledged the lapse of time since the events and also that Dr Coventry was at a relatively early stage of his career at the time.

128. Ms Fairley submitted that the aggravating factor was Dr Coventry's lack of insight. Ms Fairley drew the Tribunal's attention to its impairment determination and its observations that Dr Coventry still sought to place blame on the Trust. Any insight that had appeared to be present at the Trust investigation in December 2019, when Dr Coventry stated that he accepted the investigation's findings, was undermined by Dr Coventry's oral evidence during this hearing, when he stated that he had said those things regarding the Trust investigation merely for the sake of moving things on.

129. Ms Fairley submitted that the placing of blame on the Trust and his employer was repeated by Dr Coventry in his Reflective Statement. There had been a number of opportunities for Dr Coventry to reflect on the implications of his actions and the effect on the profession as a whole but reflection in this regard was also lacking in the Reflective Statement. At present, there was little evidence that Dr Coventry had an understanding of the impact of his behaviour on colleagues or the wider impact on the profession as a whole.

130. Ms Fairley then took the Tribunal through the sanctions available to it in escalating order. She submitted that there were no exceptional circumstances in this case that would justify taking no action. It would neither be sufficient nor proportionate, or in the public interest, to conclude this case by taking no action.

131. Ms Fairley, turning next to the sanction of conditions, reminded the Tribunal this was a case of repeated dishonesty and submitted that, therefore, this was not a case where conditions would be appropriate. It would be difficult to identify conditions that could address dishonesty. The dishonesty found proved was serious and had been repeated, and a period of conditions would not be sufficient to satisfy the public interest.

132. Ms Fairley submitted that the appropriate sanction in this case was one of suspension and that paragraphs 91, 92, 93, and 97(a), (e), (f) and (g) of the SG were relevant in consideration of suspension:

> ***91*** *Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*
>
> ***92*** *Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (i.e., for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*
>
> ***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 to d*** *(not relevant)*
>
> ***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.*

133. Ms Fairley told the Tribunal that the GMC did not submit that Dr Coventry's misconduct was fundamentally incompatible with continued registration, and acknowledged

that there had been no repetition since the index events. However, the breach of GMP was serious enough that any sanction lower than suspension would not be sufficient.

134. Ms Fairley submitted that this was a case involving deliberate deceit within a professional context and the Tribunal had found it amounted to a serious breach of the fundamental tenets of the overarching principle and regulations. The Tribunal had also found at the impairment stage, that Dr Coventry's actions had the potential to undermine trust in him and also the wider profession.

135. Ms Fairley submitted that the dishonesty in this case could not be described as a single incident or error in judgement. Dr Coventry had acted dishonestly on more than one occasion, representing multiple clear breaches of expectations of honesty and integrity, conduct which was serious enough that action needed to be taken to maintain public confidence in the profession.

136. Ms Fairley drew the Tribunal's attention to its impairment determination and its findings relating to Dr Coventry's insight. Ms Fairley submitted Dr Coventry's insight into his actions was limited and there had been a failure to reflect upon it thus far. There was a concern that due to this limited insight there remained the risk of repetition of the dishonesty.

137. Ms Fairley then referred the Tribunal to paragraphs 120 and 124 of the SG, which relate specifically to cases of dishonesty:

> *120 Good medical practice states that registered doctors must be honest and trustworthy, and must make sure that their conduct justifies their patients' trust in them and the public's trust in the profession.*
>
> *124 Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.*

138. Ms Fairley submitted a review hearing would be necessary in this case, and referred the Tribunal to paragraph 164 of the SG which states:

> *164 In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A*

review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):

a *they fully appreciate the gravity of the offence*

b *they have not reoffended*

c *they have maintained their skills and knowledge*

d *patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.*

139. Ms Fairley submitted that Dr Coventry would be able to demonstrate at the review that he had begun to fully appreciate the gravity of his conduct.

140. Ms Fairley closed her submissions by stating that the misconduct in this case was sufficiently serious that action was required to uphold the second and third limbs of the statutory overarching objective. A period of suspension would be adequate to restore and uphold public trust in the profession, and would send the appropriate message to the profession and Dr Coventry regarding expected standards of conduct and behaviour. Ms Fairley concluded that the GMC did not call for erasure.

On behalf of Dr Coventry

141. On behalf of Dr Coventry, Mr Coventry submitted that Dr Coventry's Reflective Statement and XXX were evidence that Dr Coventry had demonstrated his awareness of the impact of his actions and a period of suspension was not required.

142. Mr Coventry submitted that the Tribunal had reached its decision at the impairment stage in the absence of XXX.

143. XXX.

144. Mr Coventry told the Tribunal that XXX; Dr Coventry was very capable and had completed an accelerated four-year medical degree at Oxford and, XXX, would not be thought to have any problem.

145. Mr Coventry submitted that instead of the week long induction most FY2 students received at the Trust, Dr Coventry received an informal HR induction and it was implied that he should find things out for himself. This was not sufficient XXX. Dr Coventry was, therefore, ignorant of policies. In addition, Dr Coventry's initial educational supervisor was unable to fulfil her role due to sickness, and a new supervisor was appointed after a few months.

146. Mr Coventry submitted that the Trust was aware of XXX and an appropriate support program could have been devised by the Trust as soon as it received the information on the transfer forms.

147. Mr Coventry guided the Tribunal to the XXX provided, XXX. Mr Coventry referred the Tribunal to its finding that Dr Coventry could have done more to familiarize himself with the sickness policy after having been alerted to it. XXX.

148. Mr Coventry referred the Tribunal to the case of *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords)* [2017] UKSC 67, and submitted that Dr Coventry's mindset was relevant to determining the consequences of his actions.

149. Mr Coventry submitted that Dr Coventry had gained significant insight into his actions, what the causes were and how to avoid it happening again. Once Dr Coventry was told in late 2018 that his actions were wrong, he ceased. Dr Coventry also accepted the outcome of the Trust investigation, namely that he had wrongly worked privately during sick leave, albeit unknowingly. This, Mr Coventry submitted, was evidence of Dr Coventry's insight.

150. Mr Coventry told the Tribunal that Dr Coventry had XXX, leading to a successful final rotation at Worthing Hospital. XXX.

151. Mr Coventry submitted that since the events Dr Coventry had invested substantially in ways to XXX so he could work most effectively in the hospital setting. Dr Coventry now knew that while his employer had a responsibility to provide him with support, it was his responsibility to do whatever was in his power to help himself.

152. Mr Coventry submitted that whilst Dr Coventry did not consider he was acting dishonestly at the time of the events, he could now see how his actions would look to others. He regretted his actions and was embarrassed at his naivety. There had been no reoccurrence of the behaviour since 2018 and this was a clear demonstration that Dr Coventry had learned his lesson. Mr Coventry reminded the Tribunal of its findings that Dr Coventry was of good character and that he had cooperated fully throughout all investigations.

153. Mr Coventry submitted that Dr Coventry had demonstrated remediation by virtue of the fact there had been no repetition of the dishonest behaviour, and that he had accepted the outcome of formal Trust hearing in December 2019. Dr Coventry had shown insight into how his actions affected his colleagues, during an investigation meeting on 10 April 2019, and had been open and transparent in relation to his private cosmetic work. In his Rule 7 response Dr Coventry accepted his behaviours were against policy and apologised in full.

154. Mr Coventry submitted that the circumstances at the time were that Dr Coventry was an FY2 doctor, relatively inexperienced in working at the Trust and XXX. Furthermore, he had

not received the induction that he needed and deserved. This led to his naivety and failure to follow sickness protocols.

155. Mr Coventry submitted that Dr Coventry accepted XXX were his responsibility to address and he has worked with XXX. Dr Coventry had personally researched his XXX and now included them in his working life. He had expressed regret and apologised, and the learned behaviours would ensure there would be no repetition of the misconduct.

156. Mr Coventry then referred the Tribunal to the GMC document *Guidance for decision makers on allegations of low level violence and dishonesty,* specifically a paragraph relating to six tests to be applied when considering allegations relating to dishonesty.

157. Mr Coventry submitted that Dr Coventry's dishonesty was a one-off isolated incident and was not persistent or repeated over a period of time. Mr Coventry referred the Tribunal to its findings relating to the events of 13 October 2018, that a member of the public would understand how Dr Coventry may have misunderstood he was technically still on sick leave and should not be working elsewhere. Mr Coventry further submitted that this could be an inference that there were just two occurrences of dishonesty, in April and August of 2018. Mr Coventry further submitted that whilst there was clearly more than one period of sick leave when the events occurred, this did not equate to persistent or repeated over a period of time, *'persistent'* and *'repeated'* being terms that meant many more times than one, and he submitted that a reasonable member of the public would agree with this.

158. Mr Coventry submitted that there had been zero financial benefit to Dr Coventry. Had he not seen the private patients on those days, they would have been rebooked with him and he would have earned the revenue on a subsequent date.

159. Mr Coventry submitted that Dr Coventry had no history of dishonesty. The events had taken place over five years ago and there was no evidence the dishonesty had been repeated since then, or that it would be repeated in the future. Mr Coventry further submitted that the dishonesty had not been directed towards a vulnerable person and no further action had been taken by the Trust after it issued a warning to Dr Coventry.

160. Mr Coventry closed his submissions by stating that, based on the above factors, this was a low level dishonesty matter and not as serious as the GMC made out. Public confidence in the profession could be upheld by agreeing undertakings. If this was no longer possible, imposition of conditions on Dr Coventry's registration that addressed the underlying cause would be the appropriate sanction in this case. Mr Coventry also referred to decisions made by the Tribunal in recent cases before it involving dishonesty issues.

The Relevant Legal Principles

161. The Tribunal's decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgment based on the evidence and merits of this particular case. In making its determination the Tribunal should consider the least restrictive sanction

first, before moving on to consider the other available sanctions in ascending order of severity.

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

163. The Tribunal should have regard to the case of *Bolton v The Law Society* [1993] EWCA Civ 32which provides:

> *'The reputation of the profession is more important than the fortunes of any individual member.'*

164. In reaching its decision the Tribunal should take into account any mitigating and aggravating features in the case and weigh them accordingly and consider these in conjunction with the Sanctions Guidelines and the statutory overarching objective: protecting and promoting the health, safety and wellbeing of the public, promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct.

The Tribunal's Determination on Sanction

165. Before considering what action, if any, to take in respect of Dr Coventry's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

Aggravating Factors

166. The Tribunal identified the following aggravating factors:

- While the Tribunal commended Dr Coventry on XXX, there was no evidence to show how he was applying his learnings in his current practice;
- Dr Coventry's misconduct was not an isolated incident and took place over a period of time;
- The dishonest behaviour was repeated after it had been brought to Dr Coventry's attention in a meeting in April 2018;
- Dr Coventry being at an early stage in his career could not mitigate any of the misconduct as honesty is something that underpins not only the profession but society as a whole;
- There was no evidence before the Tribunal as to any insight demonstrated by Dr Coventry of his understanding regarding how his conduct would have impacted his peers, or indeed the public confidence in the profession as a whole.

Mitigating Factors

167. The Tribunal identified the following mitigating factors:

- Dr Coventry recognised the root of the behaviours that led him to be dishonest, and the need to undertake XXX tasks, such as reading important policies;
- XXX;
- It had been five years since the index events;
- Dr Coventry was at an early stage of his career at the time of the index events. However, with regards to the findings of dishonesty the Tribunal placed limited weight on this factor.

No action

168. The Tribunal first considered whether to conclude the case by taking no action. It noted from the SG that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

169. The Tribunal found that there were no exceptional circumstances in this case. It determined that given its finding of dishonesty amounting to misconduct and its finding of impairment, taking no action would not be sufficient, proportionate or meet the statutory overarching objective.

Conditions

170. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Coventry's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

171. The Tribunal noted that the SG stated that in many cases the purpose of conditions is to help the doctor deal with health issues or remedy any deficiencies in practice or where there is evidence of shortcomings in specific areas of practice or knowledge of English. However, this was a case that involved dishonesty and the Tribunal determined that no conditions could be formulated that were workable or measurable. Further, the Tribunal concluded that a period of conditional registration would be insufficient to mark the seriousness of the misconduct, and would not protect the public interest or maintain public confidence in the profession.

Suspension

172. Moving on to consideration of whether suspension would be the most appropriate sanction, the Tribunal took into account paragraphs 91, 92, 93 and 97 (a), (e), (f) and (g) of the SG.

173. The Tribunal acknowledged Mr Coventry's citation of *Ivey.* However, the Tribunal was concerned that it appeared that Dr Coventry continued to believe that he had not acted dishonestly but he accepted the public or others may think so. The Tribunal also had regard

to the fact that Mr Coventry, in his submissions, told the Tribunal that Dr Coventry had accepted the Trust findings. However, the Tribunal was also cognisant that, in his oral evidence, Dr Coventry told the Tribunal he had expressed acceptance just for the sake of *'moving on',* and this highlighted Dr Coventry's current lack of insight.

174. The Tribunal also noted that most acknowledgements of fault throughout this hearing only came after the Tribunal had handed down its determinations. Accordingly, based on the reactive nature of Dr Coventry's submissions regarding insight, together with his evidence that he had previously said he accepted findings simply to move things along, the Tribunal was concerned the insight stated at this stage of proceedings and was not complete and was again merely lip-service to move things along.

175. The Tribunal took into consideration Mr Coventry's submission that there had been no financial gain in this case. The Tribunal did not accept this. Dr Coventry would have been paid for his sick leave from the public purse whilst also being paid for private work. Furthermore, the NHS Trust may have had to fund further staffing to cover Dr Coventry's absence. This further highlighted that there was a way to go before Dr Coventry understood the consequences of his actions and full insight could be developed.

176. The Tribunal did not accept Mr Coventry's submission that Dr Coventry's behaviour was not persistent or repeated. It had earlier determined that there had been three occasions of the dishonest behaviour occurring over a period of some months.

177. The Tribunal commended Dr Coventry on the steps he had taken to address XXX, and the steps he had implemented to manage his day-to-day life. However, the Tribunal noted that it had not been presented any evidence as to how he was applying his learnings to his current practice. Dr Coventry had shown he had the capacity to manage his behaviour but there was nothing put forward to show how he had reflected on how his behaviour impacted on colleagues and the profession. The Tribunal was not provided with any testimonials from third parties to showcase Dr Coventry's current behaviour in the workplace.

178. The Tribunal had regard to XXX. The Tribunal referred to its earlier determination with regard to Dr Coventry accepting responsibility for his actions particularly after he had agreed to undertake specific action points and had received several reminders to carry out the same. The Tribunal also took into consideration that the ongoing blame on the Trust was further evidence of a lack of insight.

179. While the Tribunal was satisfied that Dr Coventry would not behave dishonestly again in relation to undertaking private work whilst on sick leave, it was concerned that the lack of insight, lack of acceptance that he had been dishonest, although he accepted others may consider him to be dishonest, and meaningful reflection, could lead to repetition in other scenarios.

180. The Tribunal was of the view that Dr Coventry's misconduct was so serious that significant action had to be taken to maintain public confidence in the profession and to maintain proper professional standards.

181. The Tribunal was satisfied that a sanction of suspension would have a deterrent effect and send the appropriate message to the profession and the wider public interest that such misconduct is unacceptable. It would satisfy the overarching objective and mark the seriousness of the Allegation.

182. The Tribunal considered that having regard to the seriousness of Dr Coventry's misconduct, it should consider erasure before determining whether suspension was sufficient.

Erasure

183. Neither party suggested this was a case that warranted Dr Coventry's name to be removed from the medical register.

184. The Tribunal took into consideration the steps Dr Coventry had taken to manage his behaviour and XXX, and was of the view this showed the start of developing full insight into his actions. The Tribunal was satisfied that while Dr Coventry had departed from principles set out in GMP and had not yet fully developed his insight, he had the potential for full insight and this specific misconduct was unlikely to be repeated. The Tribunal concluded that Dr Coventry's behaviour was not fundamentally incompatible with continued registration and, therefore, erasure was not the appropriate sanction in this case.

185. The Tribunal was satisfied that a period of suspension was appropriate and proportionate in all of the circumstances.

Duration of Suspension

186. Having determined that a period of suspension was the appropriate sanction, the Tribunal had regard to paragraph 100 of the SG:

> ***100*** *The following factors will be relevant when determining the length of suspension:*
>
> ***a*** *the risk to patient safety/public protection*
>
> ***b*** *the seriousness of the findings and any mitigating or aggravating factors (as set out in paragraphs 24–60)*
>
> ***c*** *ensuring the doctor has adequate time to remediate.*

187. The Tribunal considered the seriousness of Dr Coventry's misconduct, balancing the aggravating and mitigating factors in this case, as well as considering the principle of

proportionality. The Tribunal was of the view that Dr Coventry should be given adequate time and opportunity to reflect on his behaviour and develop his insight, and to carry out remediation. The aim of a period of suspension would be that Dr Coventry be able to present a reviewing Tribunal with substantial evidence that his fitness to practise is no longer impaired and he can return to unrestricted practice.

188. The Tribunal had regard to the fact that whilst Dr Coventry accepted that others may consider him to have acted dishonestly he still maintained that he did not believe he had acted dishonestly. The times when he accepted some aspects of his behaviour were reflections that came only after the Tribunal’s determinations had been handed down, as a reaction to those findings.

189. The Tribunal was not satisfied that, taking into account Dr Coventry's own evidence that he had previously accepted decisions to simply move on, the insight given as a reaction to the determinations handed down in this matter was anything more than words. The Tribunal had seen no evidence as to how Dr Coventry's learnings were being implemented in his current practice thus demonstrating any remediation, nor had Dr Coventry provided much in the way of reflection of how his actions would have impacted on his colleagues in both the NHS and private practice. There was also a lack of evidence that Dr Coventry understood how his actions could affect the reputation of the profession as a whole.

190. The Tribunal concluded that in the five years since the index events, there had been inadequate reflection on Dr Coventry’s part. Furthermore, when insight had been expressed they were moments of reactionary insight and not fully developed.

191. Taking the above into consideration, the Tribunal concluded that a six-month period of suspension would allow Dr Coventry time to truly reflect on his behaviour, rather than be reactionary. Dr Coventry would have time to gain insight into the effect of his actions on his colleagues and the public confidence in the profession, and to take further steps to remediate.

Review Hearing

192. The Tribunal determined to direct a review of Dr Coventry’s case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to emphasise that at the review hearing the onus will be on Dr Coventry to demonstrate how he has developed insight into his actions and the impact of his actions on his colleagues and the reputation of the profession as a whole, and also how he has applied his learnings experientially in the workplace.

It therefore may assist the reviewing Tribunal if Dr Coventry provides:

- Reflective Statement relating to the impact of his behaviours on colleagues and the reputation of the profession;

- 360 degree feedback from a wide range of colleagues working in different disciplines and roles;
- Evidence of how the remediation steps Dr Coventry has put into place have an impact on his day-to-day practice in a work setting.

Dr Coventry will also be able to provide any other information that he considers will assist.

Determination on Immediate Order - 05/09/2023

193. Having determined to suspend Dr Coventry's registration for a period of six months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Coventry's registration should be subject to an immediate order.

Submissions

194. On behalf of the GMC, Ms Fairley referred the Tribunal to paragraphs 172, 173, and 178 of the SG which state:

> *172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. 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.*
>
> *178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.*

195. Ms Fairley submitted that the GMC did not positively submit that it was necessary to impose an immediate order in this case. There was no risk to patient safety and the index events had occurred some time ago. Ms Fairley further submitted that the Tribunal may wish to consider the public interest as this was a case of dishonesty with findings that were serious. However, Ms Fairley reiterated, the GMC did not positively submit an immediate order was necessary.

196. On behalf of Dr Coventry, Mr Coventry submitted that Dr Coventry was currently not practising within the NHS, and that it was in Dr Coventry's best interests that an immediate order be imposed so that the start of the suspension is not delayed.

The Tribunal's Determination

197. In reaching its decision, the Tribunal exercised its own discretion based on the specific facts of this case as well as taking into account the submissions from both parties. In particular, the Tribunal considered the seriousness of the matter that led to the substantive sanction and whether it was appropriate for Dr Coventry to continue in unrestricted practice before the substantive order takes effect.

198. The Tribunal had regard to paragraphs 172-178 of the SG and bore in mind that it may impose an immediate order where it determines that such a step is necessary to protect members of the public, is in the public interest to do so, or is otherwise in the best interest of the public or indeed the doctor, in doing so. The Tribunal also considered that an immediate order might be appropriate where a doctor poses a risk to patient safety or where immediate action is required to protect public confidence in the medical profession.

199. In making its decision the Tribunal balanced all factors against the interests of the doctor as against the wider public interest.

200. The Tribunal took into consideration that there was no risk to public safety in this case, the length of time since the index events without any repetition of the misconduct, and that Dr Coventry was currently not practising within the NHS. It was of the view that the public interest aspect was not sufficiently compelling enough to impose an immediate order.

201. Accordingly, the Tribunal determined it was not necessary to impose an immediate order in this case.

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

203. There is no interim order to revoke.

204. That concludes this case

ANNEX A – 17/07/2023

Application for Dr Daniel Coventry to be represented by Mr Stuart Coventry

205. On day one of the hearing, 10 July 2023, Dr Coventry made an application under Rule 33 of the Rules for his father, Mr Stuart Coventry, to represent him at this hearing.

Submissions on behalf of Dr Coventry

206. Mr Coventry confirmed to the Tribunal that he is not subject to any of the restrictions outlined in Rule 33 of the Rules which would indicate that he is not a *'fit and proper'* person to represent Dr Coventry in these proceedings.

Submissions on behalf of the GMC

207. Ms Fairley submitted that the GMC did not oppose the application for Dr Coventry to be represented by Mr Coventry.

The Relevant Legal Principles

208. In determining whether a person is suitable or not the Tribunal should consider the application with reference to the *Guidance on representation at hearings* ('the Guidance').

209. The decision as to whether a person is suitable is for the Tribunal's judgment alone. However, the existence of one or more of the factors of Annex C of the Guidance may indicate that a person is not suitable. The Tribunal will note that the Chair has enquired of Mr Coventry with regards to the questions posed at Annex C and he has responded in the negative to these.

210. The Tribunal should be mindful that the representative should be able to present the doctor's case with independence, honesty and integrity. They should also understand the hearing procedure and carry out their role fairly and effectively ensuring that in doing so they are mindful of the statutory overarching objective to protect the public. The Tribunal should also have regard to the following:

- The importance of the hearing for the doctor;
- The complexity of the issues to be considered; and
- The need to safeguard the efficient use of hearing resources.

211. The Tribunal must balance the interests of the Dr in being represented by the person of their choice against the need to ensure that the hearing proceeds fairly and expeditiously.

The Tribunal's Decision

212. The Tribunal had regard to Rule 33(1)(c) of the Rules which states:

"(1) At a hearing, the practitioner may be represented by-

…

(c) at the discretion of the Committee or Tribunal, a member of his family or other suitable person."

213. The Tribunal was of the view that there was nothing before it to suggest that Mr Stuart Coventry is not a *'fit and proper'* person to represent Dr Coventry at this hearing. Bearing in mind the need for this hearing to proceed expeditiously and in fairness to the practitioner, the Tribunal exercised its discretion and determined to grant Dr Coventry's application for Mr Coventry to be his representative.

ANNEX B - 20/07/2023

Application under Rule 34(1) to admit evidence

214. On 18 July 2023, day 7 of the hearing, following Ms Fairley's submissions on impairment, Dr Coventry made an application under Rule 34(1) of the Rules to adduce additional evidence before Mr Coventry made his submissions on impairment.

Submissions on behalf of Dr Coventry

215. Mr Coventry submitted that Dr Coventry believed the documents had been previously submitted and that they would be relevant for this stage. Mr Coventry explained that although there was some duplication in the documents that the Tribunal would have seen already, the relevant parts related to Dr Coventry's insight into his actions as well as his remorse.

Submissions on behalf of the GMC

216. Ms Fairley submitted that while it was unusual to be admitting further evidence following the GMC submissions on impairment, it was a matter for the Tribunal to determine. The GMC appreciated that Dr Coventry was not legally represented. The documents were: an email from the GMC solicitor to the MPTS Case Manager in advance of the Case Management pre-hearing meeting to be held on 1 November 2022; and Dr Coventry's Rule 7 response, dated June 2021.

217. Ms Fairley submitted that the first document was not relevant to this stage, and much of the second document had been incorporated into Dr Coventry's witness statement at stage one and was of limited relevance.

218. Ms Fairley submitted that the GMC did not wish to be obstructive and prevent the hearing going on, or for Dr Coventry to feel he was prevented from putting documents before the Tribunal that he wanted to be seen. The GMC, therefore, did not oppose the application.

The Relevant Legal Principles

219. The Tribunal had regard to the principles of fairness and relevance, in accordance with Rule 34(1) of the Rules, which states:

> *'The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.'*

220. The Tribunal must ensure that it assesses the impact of admitting the evidence upon the public interest, as well as any prejudice caused to the practitioner or other parties, and it should have regard to the interest of fairness to each party whilst holding the statutory overarching objective as the Tribunal's predominant purpose.

The Tribunal's Decision

221. The Tribunal considered the purpose of introducing the evidence, which was to demonstrate Dr Coventry's reflections on his past behaviours.

222. The Tribunal took into consideration that the evidence dealt with insight and apology and was therefore related to this stage of the hearing. The Tribunal also took into account the GMC's neutrality on this matter.

223. The Tribunal was of the view that while the evidence would not change the GMC submissions, it allowed Mr Coventry the opportunity to show Dr Coventry's insight and remorse.

224. The Tribunal concluded that there was no prejudice caused to either party by admitting the evidence. Accordingly, the Tribunal concluded that it was fair to admit the two documents presented by Dr Coventry into evidence.

Schedule 1

18 April 2018
21 April 2018
13 October 2018

Schedule 2

10 August 2018