

PUBLIC RECORD

Date: 05/03/2021 & 08/04/2021

Medical Practitioner's name: Dr David CREED

GMC reference number: 4008992

Primary medical qualification: MB ChB 1993 University of Bristol

Type of case	Outcome on impairment
Review - Misconduct	Impaired

Summary of outcome
Erasure

Tribunal:

Legally Qualified Chair	Mr Graham White
Lay Tribunal Member:	Mr Andrew Donovan
Medical Tribunal Member:	Dr Fade Ibitoye

Tribunal Clerk:	Ms Angela Carney Miss Kanwal Rizvi
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Attendance and Representation:

Medical Practitioner:	Not present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Mr Alan Taylor, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Impairment - 05/03/2021

1. The Tribunal must decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Creed's fitness to practise is currently impaired by reason of misconduct.

The Outcome of Applications Made during the Impairment Stage

2. The Tribunal granted the GMC's application, made pursuant to Rule 40 of the Rules, that, service has been proved and to proceed in Dr Creed's absence. The Tribunal's full decision on the application is included at Annex A.

Background

3. Dr Creed qualified in 1993 at the University of Bristol and prior to the events which are the subject of the hearing he was working as a Clinical Assistant in Dermatology at Addenbrooke's Hospital. In 2001 he joined the York Street Medical Practice ('the Practice') in Cambridge becoming a part time partner. He continued as a Clinical Assistant at Addenbrooke's and in 2004 became a GPwSI in Dermatology. Dr Creed ran a GPwSI dermatology clinic from the Practice between 2004 and 2014 and from 2015 to April 2018. Dr Creed's employment at the Practice concluded in August 2018.

4. The facts found proved by the 2020 Tribunal at Dr Creed's hearing which took place in February, related to his treatment of Patients A and B and his behaviour towards them. The 2020 Tribunal found proved that Dr Creed attended Patient A's home address on one or more occasions when Patient A had told Dr Creed that she was happy to come to the Practice; made personal comments and hugged Patient A during the course of consultations and home visits; Dr Creed made personal comments to Patient B during the course of consultations and attended Patient B's place of work when she was an ex-patient; took Patient B's contact details and contacted her when it was not clinically indicated. It also found

proved that Dr Creed attempted to engage in an inappropriate emotional relationship with both Patient A and Patient B and acted in a sexually motivated manner with Patient A.

5. The 2020 Tribunal considered that the facts found proved amounted to serious misconduct. It determined that Dr Creed's actions placed Patient A and Patient B at risk and had breached fundamental tenets of the medical profession by acting in a sexually motivated fashion and bringing the profession into disrepute.

6. The 2020 Tribunal went on to consider whether Dr Creed's fitness to practise was impaired. It noted that Dr Creed had made a start towards remediation however, he still lacked insight. The 2020 Tribunal had concerns that Dr Creed had not fully understood the impact his actions nor had he learned from subsequent training and reflection. He had continued his attempt to pursue an emotional relationship with Patient B. Therefore, it determined that there remained a risk of repetition and Dr Creed needed to develop his insight in order to fully remediate.

7. The 2020 Tribunal determined that all three limbs of the overarching objective were engaged. Dr Creed's actions had put at risk the health, safety and well-being of his patients, would be likely to have undermined public confidence in the profession and were in breach of proper professional standards and behaviour. Moreover, in this case, having found misconduct of this nature a finding of impairment of fitness to practise was justified on the grounds that it was necessary in the public interest.

8. The 2020 Tribunal determined that an order of suspension for a period of 12 months would be the most appropriate and proportionate sanction. It determined that sexually motivated behaviour towards a vulnerable patient necessitated a strong signal that such behaviour will not be tolerated. It also, however, considered that there was a good prospect that the doctor could remediate. It concluded that this satisfied the requirements of the statutory overarching objective and would allow Dr Creed time to fully reflect on the gravity and impact of his actions on Patient A and Patient B and remedy his misconduct.

9. The 2020 Tribunal went on to consider erasure and determined that the misconduct as found proved in this case could well justify erasure. The 2020 Tribunal was concerned that the doctor did not fully appreciate that his actions had caused the distress, described by Patient A and Patient B in their evidence. However, the 2020 Tribunal also took into account the prospect of remediation. The 2020 Tribunal therefore judged that erasure from the Medical Register would be disproportionate in the circumstances of this case.

10. The 2020 Tribunal directed a review hearing and indicated that any future Tribunal reviewing Dr Creed's case may be assisted by the following:

- Evidence of Dr Creed's acceptance of his attempt to engage in an inappropriate emotional relationship with both Patient A and Patient B, and his reflection on those actions

- Evidence of Dr Creed’s acceptance of his sexually motivated behaviour with Patient A, and his reflection on those actions
- An independent assessment of the effectiveness of any professional help he has received would be more persuasive than an assessment of his behaviour limited to those who are in his immediate circle
- Evidence of the strategies Dr Creed has put in place to address his personal weakness and vulnerabilities going forward
- Any examples of when he has used these strategies
- A reflective piece demonstrating the level of his insight into the gravity and the impact his actions have had on public confidence, on Patient A and Patient B, and on the reputation of the medical profession. The Tribunal noted that Dr Creed had offered to attend a three day clinical boundaries course. Whilst this may assist the reviewing Tribunal it was unlikely that this alone would be sufficient to satisfy a Tribunal of his remediation
- Evidence that Dr Creed has kept his medical skills and knowledge up to date
- Any other evidence Dr Creed considers may be of assistance to the reviewing Tribunal.

The Evidence

11. The Tribunal has taken into account all the documentary evidence which included but was not limited to:

- Correspondence between Dr Creed and the GMC from 8 April 2020 to 4 November 2020
- Correspondence between the GMC and Ms Venessa Holt, Dr Creed’s legal representative, dated 12 and 19 November 2020
- Dr Creed’s Personal statement dated 9 February 2021
- Dr Creed’s further comments for MPT Review (undated received 4 March 2021)
- Dr Creed’s testimonials received on 4 March 2021
- Dr Creed’s Reflections on the Boundaries Course attended on 16 March 2018
- Two emails from Ms Holt, dated 5 March 2021 and timed 10.16am and 10.43am, respectively

Submissions

12. On behalf of the GMC, Mr Taylor, Counsel reminded the Tribunal of the background to the case.

13. Mr Taylor referred the Tribunal of the statutory over-arching 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.

14. He also referred the Tribunal to paragraph 17 of the Sanctions Guidance (the SG) (November 2020), which states:

‘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...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.’

15. Mr Taylor submitted that there is a persuasive burden on the doctor to reassure a reviewing Tribunal that his fitness to practise is no longer impaired. He stated that Dr Creed has come *‘nowhere near’* to satisfying the Tribunal in relation to the matters of concern that were before the 2020 Tribunal.

16. Mr Taylor also 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.’

17. Mr Taylor submitted that Dr Creed has not fully appreciated the gravity of his offence. He reminded the Tribunal that Dr Creed has not provided an independent assessment of the effectiveness of any professional help he has received. Mr Taylor stated that the testimonials provided by Dr Creed are from persons within Dr Creed’s immediate circle. Mr Taylor referred the Tribunal to Dr Creed’s testimonials, one of which stated:

‘I was saddened by the findings of the tribunal because, based on my knowledge of Stuart’s character I was, and still am confident that the incidents were examples of Stuart going the extra mile to help, and were not sexually motivated.’

18. Mr Taylor stated that another testimonial stated:

'I am still unable to agree that Stuart has ever had any wrongful or sexual motivation behind any of his choices'.

19. Mr Taylor submitted that Dr Creed has failed to provide all of the evidence of the first five bullet points suggested by the 2020 Tribunal. Mr Taylor submitted that whilst there is some insight it is limited. He suggested that Dr Creed is primarily concerned about the impact of his actions on himself and his family and that whilst Dr Creed has apologised and accepted that his actions were inappropriate his insight is incomplete. He submitted that Dr Creed is in denial due to his inability to accept his attempt to engage in an inappropriate emotional relationship with both Patient A and Patient B and his inability to accept that his actions were sexually motivated towards Patient A.

20. Mr Taylor reminded the Tribunal that Dr Creed accepted that he has not kept his medical skills and knowledge up to date and has not practised since 2018 and he wishes to leave the medical profession. Mr Taylor stated that Dr Creed has not practised since 2018 and there is no evidence that he has reoffended.

21. Mr Taylor submitted that patients would be placed at risk by resumption of practice or by the imposition of conditional registration. Mr Taylor submitted that, in all the circumstances, the Tribunal is driven to the conclusion that Dr Creed's insight is limited, his remediation is incomplete and he has not satisfied the stipulations of the previous Tribunal in that he has not sufficiently addressed all of the concerns to this Tribunal's satisfaction.

22. Mr Taylor noted that Dr Creed apologises and says that his actions were *'careless; selfish, inconsiderate and inappropriate'*. However, Mr Taylor submitted that Dr Creed does not accept that his behaviour with Patient A was sexually motivated or that he sought an inappropriate emotional relationship with Patient A and Patient B. Mr Taylor also reminded the Tribunal that in Dr Creed's statement he stated that his actions *'were unwise and ill-considered in that they were open to misinterpretation'* and *'errors of judgement'*. Mr Taylor stated that this is indeed Dr Creed's position, and that the authors of the testimonials support this. Mr Taylor submitted that this falls short of what the former Tribunal had considered in relation to achieving full insight and remediation.

23. Mr Taylor submitted that Dr Creed's fitness to practise remains impaired by reason of his misconduct. Further, that public confidence in the profession would be undermined if a finding of impairment were not made.

24. On behalf of Dr Creed the Tribunal received an email from Ms Holt outlining Dr Creed's position, dated 5 March 2021 at 10.16 am which stated:

'I have spoken to Dr Creed this morning and would be grateful if this email could be placed before the Tribunal.'

Dr Creed wishes to leave the Medical Register. While he believes that he has satisfied a number of the previous Tribunal's requirements in terms of remediation, he does accept that he has not kept up to date because of his early decision not to continue to work in the medical profession. Therefore, he accepts that his fitness to practise is impaired by reason of the fact that he has not practised since April 2018.'

The Relevant Legal Principles

25. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

26. This Tribunal must determine whether Dr Creed's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

27. The Tribunal took account of Dr Creed's statement dated 9 February 2021, in which he stated:

'Having now had almost four years of detailed reflection, I very much understand that my actions in visiting a patient at home and another at her place of work were unwise and ill-considered in that they were open to misinterpretation. I am therefore extremely sorry for any upset experienced by my patients. Furthermore I understand why the MPTS considered my actions to be inappropriate.'

28. The Tribunal also took account of Dr Creed's further comments (undated but received 5 March 2021), which states:

'Whereas I understand the findings of the Tribunal and their significance, I firmly do not believe that lying is an appropriate action to satisfy the requests of the Tribunal.

I cannot therefore lie and say that I "accept I attempted to engage in an inappropriate emotional relationship with Patient A and Patient B." Neither can I "accept that my behaviour with Patient A was sexually motivated."

Despite this, I very much acknowledge that I made some considerable mistakes leading to some inappropriate actions in my professional care of Patient A and Patient B, mistakes on which I elaborate below. I submit that my considerable reflection and learning and the actions I have taken, have now produced an end result which is

similarly protective of others, as if my behaviour had been sexually motivated and then made changes from a recognition of that motivation...'

29. The Tribunal bore in mind that Dr Creed's denial that his actions were sexually motivated towards Patient A and that he was intending to engage in an inappropriate emotional relationship with Patient A and Patient B does not necessarily constitute a bar to remediation. It noted in his personal statements, Dr Creed apologised and accepted that his actions were inappropriate.

30. The Tribunal noted that Dr Creed has not provided evidence of any independent assessment of the effectiveness of any professional help in relation to his behaviour. It further noted that Dr Creed's testimonials are mainly limited to those who are in his immediate circle. The Tribunal also bore in mind that the Boundaries Course Dr Creed attended was some time ago, on 16 March 2018.

31. The Tribunal noted that Dr Creed accepted that his fitness to practise remains impaired as he has not kept his medical skills and knowledge up to date due to his early decision not to continue to work in the medical profession.

32. The Tribunal considered that Dr Creed's misconduct is capable of remediation. It considered that Dr Creed has demonstrated some insight. However, the Tribunal determined that Dr Creed has not sufficiently demonstrated that he has addressed the behaviour which led to his misconduct and his remediation is not complete, it follows that there is a continued risk to the safety and wellbeing of patients.

33. The Tribunal has therefore determined that Dr Creed's fitness to practice is impaired by reason of misconduct.

Determination on Sanction - 08/04/2021

1. Having determined that Dr Creed's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22 (1)(h) of the Rules on the appropriate sanction, if any, to impose.

The Outcome of Applications Made during the Sanction Stage

2. The Tribunal granted the GMC's application, made pursuant to Rule 31 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') to proceed in Dr Creed's absence. The Tribunal's full decision on the application is included at Annex C.

The Evidence

3. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing where relevant to reaching a decision on what action, if any, it should take with regard to Dr Creed’s registration.

Submissions

4. On behalf of the GMC, Mr Taylor submitted that the appropriate sanction in this case is one of erasure. He reminded the Tribunal that in exercising its judgment on the appropriate sanction it must start with the least restrictive and referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (November 2020) (‘the SG’).

5. Mr Taylor submitted that this was not a case with any exceptional circumstances that could lead the Tribunal to direct that no action be taken. He further submitted that there were no workable conditions that could be imposed to address Dr Creed’s conduct. He referred the Tribunal to the 2020 Tribunal’s sanction determination in relation to conditions and reminded the Tribunal that it determined that Dr Creed had not kept his medical skills and knowledge up to date.

6. Mr Taylor also referred the Tribunal to paragraph 26 of the 2020 Tribunal’s determination on sanction, which states:

‘26. The Tribunal determined that it could not formulate adequate conditions to address the findings made previously by this Tribunal. The Tribunal also noted that following the complaint made by Patient A, Dr Creed was subject to conditions but he did not appear to have learnt from those restrictions bearing in mind that his behaviour with Patient B took place after those restrictions had been placed on him.’

7. Mr Taylor referred the Tribunal to the relevant paragraphs of 97 of the SG in relation to suspension, which states:

‘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...

c. ...

d. ...

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.'

8. Mr Taylor reminded the Tribunal that the 2020 Tribunal found that remediation might be possible. He submitted that there is evidence today that this is unlikely. He also referred the Tribunal to its decision on impairment which stated that Dr Creed had demonstrated some insight but that his remediation was not complete and there was a continued risk to the safety and wellbeing of patients.

9. In relation to erasure Mr Taylor submitted that Paragraphs 109, 142, 143, 146, 147 and 148 of the SG, as follows, were engaged.

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

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

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

c. ...

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

e. Violation of a patient's rights/exploiting vulnerable people (see Good medical practice, paragraph 27 on children and young people, paragraph 54 regarding expressing personal beliefs and paragraph 70 regarding information about services).

f. ...

h. ...

i. ...

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

142. Trust is the foundation of the doctor-patient partnership. Doctors' duties are set out in paragraph 53 of Good medical practice and in the explanatory guidance documents Maintaining a professional boundary between you and your patient.

143. Doctors must not use their professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.

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

147. If a doctor has demonstrated predatory behaviour, motivated by a desire to establish a sexual or inappropriate emotional relationship with a patient, there is a significant risk to patient safety, and to public confidence and/or trust in doctors.

148. More serious action, such as erasure, is likely to be appropriate where a doctor has abused their professional position and their conduct involves predatory behaviour or a vulnerable patient or constitutes a criminal offence.'

10. Mr Taylor also referred the Tribunal to the paragraph 32 of the 2020 Tribunal's determination on sanction, which states:

'32. The Tribunal did go on to consider erasure and determined that the misconduct as found proved in this case could well justify erasure. The Tribunal was concerned that the doctor did not fully appreciate that his actions had caused the distress, described by Patient A and Patient B in their evidence. However, the Tribunal was of the opinion that there was a good prospect that the doctor could remediate. The Tribunal therefore judged that erasure from the Medical Register would be disproportionate in the circumstances of this case.'

11. Mr Taylor submitted that in the absence of remediation and the opportunity being spurned by Dr Creed, erasure is the appropriate sanction in this case. It appears that Dr Creed does not wish to remain on the register but opposes enforced erasure. Mr Taylor referred the Tribunal to the correspondence from Ms Holt, Dr Creed's legal representative in relation to erasure. Mr Taylor stated that Dr Creed's primary objective will be achieved if the sanction of erasure is imposed, as it will bring these proceedings to an end, so that he can move on to a career outside of medicine. Mr Taylor submitted that it is appropriate and proportionate for Dr Creed's name to be erased from the Medical Register.

12. The Tribunal considered an email dated 29 March 2021 from Dr Creed's solicitor outlining his position and stating:

‘Dr Creed understands that the GMC will be seeking a sanction of erasure at the hearing. Dr Creed considers that to be erased by this Tribunal would be both disproportionate and unnecessary given that erasure was not deemed necessary at the original hearing and his reflections and learnings since that hearing. However, as the Tribunal will be aware, Dr Creed has no intention of returning to medicine and his primary objective, after four years of stress dealing with the allegations, is to be in a position whereby he and his family can move on from these proceedings so that he may pursue a career outside of medicine.’

The Tribunal’s Approach

13. The decision as to the appropriate sanction, if any, to impose in this case is a matter for the Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken the SG into account and borne in mind the over-arching objective.

14. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and that sanctions are not imposed to punish or discipline doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Creed’s interests with the public interest.

The Tribunal’s Determination on Sanction

No action

16. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Creed’s case, the Tribunal first considered whether to take no action.

17. The Tribunal considered that there were no exceptional circumstances in this case which might justify taking no action against Dr Creed’s registration. The Tribunal also determined that in view of its findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action.

Conditions

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

19. Paragraph 82 of the SG, states that:

Conditions are likely to be workable where:

‘a. the doctor has insight

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

c. the tribunal is satisfied the doctor will comply with them

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

20. In its deliberations, the Tribunal had regard to Mr Taylor's submissions that Dr Creed had not practised since 2018 and has not kept his medical skills and knowledge up to date. Dr Creed has not demonstrated sufficient insight or remediation. In light of this, the Tribunal determined that it could not formulate adequate conditions which would be workable.

21. The Tribunal determined that it would be neither sufficient nor appropriate to direct the imposition of conditions on Dr Creed's registration. The Tribunal concluded that an order of conditions would not uphold the three limbs of the overarching objective.

Suspension

22. The Tribunal went on to consider whether to impose a period of suspension on Dr Creed's registration. The Tribunal accepted that suspension does have a deterrent effect and could be used to send a signal to Dr Creed, the profession, and the public about what is regarded as behaviour unbecoming a registered doctor. The Tribunal noted the SG provides that suspension may be appropriate where there is an acknowledgement of fault and it is satisfied the conduct will not be repeated.

23. In its determination on impairment the Tribunal found that Dr Creed had not sufficiently demonstrated that he had addressed the serious behaviour which led to his impairment. His remediation was not complete, and it follows that there is a continued risk to the safety and wellbeing of patients.

24. In light of this and the fact that Dr Creed has decided not to return to Medical Practice, the Tribunal concluded that a period of suspension would no longer be appropriate to sufficiently protect the public interest.

25. The Tribunal also found that imposing a period of suspension would not maintain public confidence or uphold proper professional standards. The Tribunal determined that Dr Creed's unremedied conduct was so serious that it was fundamentally incompatible with continued registration. It determined that suspension would not be an appropriate or proportionate sanction in this case.

Erasure

26. The Tribunal went on to consider erasure, and the following paragraph of the SG in relation to that, 109 (a – j), which state:

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

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

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

c. ...

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

e. Violation of a patient’s rights/exploiting vulnerable people...

f. ...

h. ...

i. Putting their own interests before those of their patients

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

27. The Tribunal reminded itself of its findings at the impairment stage that it had very limited evidence of further reflection and remediation since the previous Tribunal hearing nor build sufficiently on the previous Tribunal’s expectations. The Tribunal noted that Dr Creed has acknowledged that his misconduct was wrong but has not sufficiently addressed the behaviour which led to that misconduct.

28. The Tribunal also considered that Dr Creed has not kept his medical skills and knowledge up to date and given his decision to leave the medical profession there is no real prospect in the future that he will do so.

29. The Tribunal determined that, based on the evidence before it and bearing in mind Dr Creed’s serious breaches of Good Medical Practice, lack of full insight and lack of remediation and including the evidence before the 2020 Tribunal, erasure is the appropriate and proportionate sanction in this case

30. It determined that erasure was both appropriate and proportionate in this case and no less a sanction would satisfy the overarching objective.
31. On that basis the Tribunal determined that Dr Creed's name be erased from the Medical Register.
32. The MPTS will send Dr Creed a letter informing him of his right of appeal and when the erasure will come into effect. The erasure will take effect 28 days from when written notice of this determination has been served upon Dr Creed, unless an appeal is made in the interim. If an appeal is made, the current order of suspension will remain in force until the appeal has concluded.
33. This concludes the case.

Confirmed
Date 08 April 2021

Mr Graham White, Chair

ANNEX A – 05/03/2021

Application under Rule 40 – Service and proceeding in absence

Service

1. Dr Creed is neither present nor represented today.
2. The Tribunal has considered whether notice of this hearing has been properly served upon Dr Creed in accordance with Rules 15 and 40 of the General Medical Council (Fitness to Practise) Rules 2004 (as amended) (the Rules), and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended). In so doing, the Tribunal has taken into account all the information placed before it, together with Mr Taylor’s submissions on behalf of the General Medical Council (GMC).
3. The Tribunal were informed that the MPTS Notice of Hearing letter dated 28 January 2021, was sent to Dr Creed at his registered address.
4. The Tribunal has seen correspondence from Dr Creed’s legal representative, Ms Venessa Holt of the MDU, dated 12 February 2021 and 4 March 2021. In her letter of 12 February 2021 Ms Holt states *‘Please be advised that Dr Creed will not be attending the hearing on 5 March 2021 and will not be represented. No discourtesy is intended to the Tribunal’*.
5. The Tribunal has also noted the email from Ms Holt, dated 5 March 2021, timed 10.43am which states that Dr Creed received the Notice of hearing and is content for the Tribunal to proceed in his absence.
6. In the circumstances, the Tribunal is satisfied that the GMC and MPTS has made all reasonable efforts to serve notice of the hearing and that it has been properly served, in accordance with Rules 15 and 40 of the GMC (Fitness to Practise) Rules 2004.

Application on Proceeding in Absence

7. The Tribunal has already determined that service is effective and as such is satisfied that all reasonable efforts have been made to serve notice of this hearing on Dr Creed. The Tribunal then considered, in accordance with Rule 31 of the Rules, whether to proceed with the case in Dr Creed’s absence.
8. The Tribunal was mindful that the discretion to proceed in Dr Creed’s absence should be exercised with utmost care and caution and with regard to the overall fairness of the proceedings.

9. The Tribunal had regard to the guidance provided in GMC v Adeogba 2016 EWCA Civ 162. It noted in particular the following relevant considerations:

- The nature and circumstances of the doctor's behaviour in absenting himself.
- In particular, whether the behaviour was voluntary and therefore that the doctor waived the right to be present;
- Whether an adjournment would result in the doctor attending on a subsequent occasion;
- Whether the doctor, although absent, wished to be represented, or whether he had waived his right to be represented.

10. The Tribunal noted the confirmation by email from Ms Holt that Dr Creed will not be attending the hearing and will not be represented. It also noted that Dr Creed has not requested a postponement of today's hearing.

11. On the basis of the information provided, the Tribunal is satisfied that Dr Creed is aware of today's hearing, has not requested an adjournment and is content for the Tribunal to proceed in his absence. The Tribunal is satisfied that Dr Creed has therefore voluntarily absented himself. There is no indication that were it to adjourn today, that he would attend a future hearing.

12. The Tribunal is satisfied that Dr Creed's misconduct was serious and concluded that it is in the public interest that the hearing proceeds today.

13. Therefore, in accordance with Rule 31, the Tribunal has determined that in the particular circumstances of this case it is fair and reasonable to proceed in Dr Creed's absence.

ANNEX B – 05/03/2021

Adjournment and extending the current order of suspension

1. Due to there being insufficient time to conclude the hearing today, the Tribunal determined to adjourn this hearing part-heard, under Rule 29(2) of the Fitness to Practise Rules 2004, as amended (the Rules).

2. The Tribunal has noted that Dr Creed's current suspension will expire on 27 March 2021.

3. In view of the Tribunal's finding that Dr Creed's fitness to practise remains impaired, which may pose a risk to patient safety, it has determined that it is necessary for the protection of patients and in the public interest, to extend the current order of suspension under Section 35D(5)(a) of the Medical Act 1983, as amended, for a period of two months.
4. Unless Dr Creed exercises his right of appeal, the further period of suspension will take effect 28 days from the date when written notice is deemed to have been served upon him. A note explaining Dr Creed's right of appeal will be sent to him. The current order for suspension will remain in effect until the appeal period has expired or any appeal has concluded.
5. The hearing will reconvene for one day at sanction stage on 8 April 2021. The Tribunal note that Dr Creed is entitled to attend and be legally represented.
6. The hearing is adjourned.

ANNEX C – 08/04/2021

Application under Rule 31 – Service and proceeding in absence

Service

1. The hearing has resumed at sanction stage. Dr Creed is neither present nor represented today.
2. The Tribunal has considered whether notice of this hearing has been properly served upon Dr Creed in accordance with Rules 40 of the General Medical Council (Fitness to Practise) Rules 2004 (as amended) (the Rules), and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended). In so doing, the Tribunal has taken into account all the information placed before it, together with Mr Taylor's submissions on behalf of the General Medical Council (GMC).
3. The Tribunal were informed that the Notice of Adjournment and reconvening hearing date in Annex B was sent to Dr Creed's legal representative on the 5 March 2021.
4. The Tribunal has seen correspondence from Dr Creed's legal representative, Ms Venessa Holt of the MDU, dated 29 March 2021. In her letter of 29 March 2021 Ms Holt states '*Dr Creed will not be attending the hearing, nor will he be represented. Dr Creed intends no discourtesy to the Tribunal and is content for the hearing to proceed in his absence*'.

5. In the circumstances, the Tribunal is satisfied that the GMC and MPTS has made all reasonable efforts to serve notice of the hearing and that it has been properly served, in accordance with Rule 40 of the GMC (Fitness to Practise) Rules 2004.

Application on Proceeding in Absence

6. The Tribunal has already determined that service is effective and as such is satisfied that all reasonable efforts have been made to serve notice of this hearing on Dr Creed. The Tribunal then considered, in accordance with Rule 31 of the Rules, whether to proceed with the case in Dr Creed's absence.

7. The Tribunal was mindful that the discretion to proceed in Dr Creed's absence should be exercised with utmost care and caution and with regard to the overall fairness of the proceedings.

8. The Tribunal had regard to the guidance provided in GMC v Adeogba 2016 EWCA Civ 162. It noted in particular the following relevant considerations:

- The nature and circumstances of the doctor's behaviour in absenting himself.
- In particular, whether the behaviour was voluntary and therefore that the doctor waived the right to be present;
- Whether an adjournment would result in the doctor attending on a subsequent occasion;
- Whether the doctor, although absent, wished to be represented, or whether he had waived his right to be represented.

9. The Tribunal noted the confirmation by email from Ms Holt that Dr Creed will not be attending the hearing and will not be represented. It also noted that Dr Creed has not requested a postponement of today's hearing.

10. On the basis of the information provided, the Tribunal is satisfied that Dr Creed is aware of today's hearing, has not requested an adjournment and is content for the Tribunal to proceed in his absence. The Tribunal is satisfied that Dr Creed has therefore voluntarily absented himself. There is no indication that were it to adjourn today, that he would attend a future hearing.

11. The Tribunal is satisfied that Dr Creed's misconduct and the issue of his current impairment was serious and concluded that it is in the public interest that the hearing proceeds today.

12. Therefore, in accordance with Rule 31, the Tribunal has determined that in the particular circumstances of this case it is fair and reasonable to proceed in Dr Creed's absence.