

PUBLIC RECORD

Dates: 11/12/2023 - 14/12/2023

Medical Practitioner's name: Dr Dimitrios PSAROUDAKIS

GMC reference number: 6053331

Primary medical qualification: MB BS 2002 University of London

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

Summary of outcome

Suspension, 3 months.

Tribunal:

Legally Qualified Chair	Mr Andrew Clemes
Lay Tribunal Member:	Mrs Joy Hamilton
Medical Tribunal Member:	Dr Becky McGee
Tribunal Clerk:	Mr Matt O'Reilly

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Tim Grey, Counsel, instructed by Medical Defence Union
GMC Representative:	Mr Thomas Moran, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 13/12/2023

Background

1. Dr Psaroudakis is currently practising as a private consultant gynaecologist and fertility specialist, XXX.
2. Dr Psaroudakis completed his medical studies at Guy's, King's and St Thomas' School of Medicine in 2002. He completed his Diploma of the Faculty of Family Planning, Royal College of Obstetricians and Gynaecologists (RCOG), in 2008, and in 2009, gained his membership of the RCOG. Dr Psaroudakis joined the specialist register in Obstetrics and Gynaecology in August 2012.
3. Dr Psaroudakis worked at The Evewell fertility clinic, based in London, as a senior consultant gynaecologist and fertility specialist between August 2018 and December 2022, providing pharmacological and fertility care. The Evewell opened in October 2018, on Harley Street and Dr Psaroudakis worked there from the outset. The company was founded by four people all of whom are Jewish. Dr Psaroudakis had a personal assistant at that time, Ms A.
4. In late July 2022, Dr Psaroudakis' employers became aware of emails and Microsoft Teams messages, the content of which were considered to be offensive, sent from Dr Psaroudakis to Ms A. As a result, Dr Psaroudakis was suspended on 29 July 2022 and an investigation was carried out. The report of that investigation was sent to Dr Psaroudakis on 31 August 2022 and he was invited to a disciplinary investigation meeting. Dr Psaroudakis resigned on 28 September 2022 prior to a disciplinary investigation meeting having taken place.
5. Dr Psaroudakis self-referred to the GMC on 26 September 2022.
6. It is alleged that the messages and emails which had been sent by Dr Psaroudakis to Ms A between 21 September 2020 and 26 July 2022 were inappropriate as they included messages that were: derogatory towards patients and colleagues; sexually explicit; sexist; and/or racist.

The Allegation and the Doctor's Response

7. The Allegation made against Dr Psaroudakis is as follows:

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

1. On the dates set out in Schedule 1 you sent emails and Microsoft Teams messages through the IT system of your place of work to Ms A containing the comments and images as set out in Schedule 1. **Admitted and found proved**
2. The comments and images at Schedule 1 were inappropriate in that they included messages that were:
 - a. derogatory towards;
 - i. patients; **Admitted and found proved**
 - ii. colleagues; **Admitted and found proved**
 - b. sexually explicit; **Admitted and found proved**
 - c. sexist; **Admitted and found proved**
 - d. racist. **Admitted and found proved**

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

Schedule 1

DATE	COMMENT/IMAGE	FORUM
21/09/2020	'me too but temple rules are different...'	Microsoft Teams
22/09/2020	'nothing's better than the temple'	Microsoft Teams
16/12/2020	(in response to a message from a patient that read: <i>Some good news inshallah – did my pregnancy test this evening and it was positive!</i>) 'I also pray to inshallah that you will find your shoes'	Email
21/12/2020	'I think there are some cracks on the ceiling, the whole temple is collapsing without the naughty toti'	Microsoft Teams
31/12/2020	'Me too, I've got my red shoes ready and my black bitches waiting!'	Microsoft Teams

Record of Determinations –
Medical Practitioners Tribunal

25/01/2021	'Try as much as you like, you are not going anywhere, I have XXX approval to chain you to the temple'	Microsoft Teams
26/03/2021	'I think it's a yewish holiday'	Microsoft Teams
05/04/2021	You sent a photograph of your hand with cuts on it followed by the comment: 'Also we need to stop making fun of the yews. I'm getting stigmata...'	Microsoft Teams
09/05/2021	'come on you promised, hammersmith will be beautiful and yew free'	Microsoft Teams
27/05/2021	(in reference to a patient) 'because she just had to have her boobs done'	Email
17/06/2021	'bye bye aldi, tell the idiot to fire her now before we get stuck with this'	Microsoft Teams
20/07/2021	You sent a link to the Urban Dictionary definition of 'Gregging' which states: <i>"Gregging" is the process by which an individual masturbates into a hat. Though this is its definition, it can also be used to describe an individual..'</i>	Microsoft Teams
21/07/2021	You signed off an email 'XXX (XXX Bitch)'	Microsoft Teams
30/07/2021	'Do you know if she arranged the bloods for the OE patient (the manager not Alcohol XXX)?'	Email
04/08/2021	You sent four images that are named 'Wandering Jew' The comment by one of the images was 'I was approached by a humongous Range Rover but managed to wander away'	Email
05/08/2021	'Because she's busy freeing willy'	Email

Record of Determinations –
Medical Practitioners Tribunal

	‘He smelled her shoes?’ (this was in response to an email informing you that a patient’s husband had committed suicide) ‘I forgot alky!’	
06/08/2021	‘No lube required?’ ‘No sex (not even gregging) bed rest 48h’ ‘they are clowns, I think my resignation may come before yours’	Email
16/08/2021	‘under dog shit’	Email
17/08/2021	‘Lube me up toti’	Email
19/08/2021	‘and tenderly join me for some post covid gregging’	Email
22/08/2021	‘Don’t worry I’ve already told them and XXX that they are dickheads’	Email
02/09/2021	‘just good old fashioned gregging’	Email
05/09/2021	‘She went hard, now she’s going home’	Email
08/09/2021	‘Fucking XXX, fucking stupid intralipid call they can all GTF’	Email
11/09/2021	‘it’s beautiful, the leprechaun and XXX are almost the same size’	Email
21/09/2021	‘I can’t think of a reason for looney tunes’ (referring to a patient)	Email
27/09/2021	‘if we hire another woman I’m going to kill myself’	Email
06/10/2021	‘the last EC was her patient, and she was lumped with the fat one instead...’	Email
19/10/2021	‘We are supporting the get your fanny out week...’	Email
22/10/2021	‘but XXX...I give up these people are idiots, im just wasting my precious freddies on them’ ‘but XXX a complete disaster, waste of my pick pocket skills’	Email

Record of Determinations –
Medical Practitioners Tribunal

28/10/2021	'toad!!! Viva XXX the frog'	Email
29/10/2021	'I no it's fucking useless, was it XXX or toad?'	Email
21/09/2021	'Maybe she's in Octoberfest with alky?'	Email
10/11/2021	'Are you available for a quick gregging?' 'Do you want some lube?' 'the IC the leprechaun booked has a lower AMH than XXX's mum' 'in the time of Stonehenge this was cured with a good bone broth and child sacrifice, officiated by XXX the Druid...'	Email
19/11/2021	'What did shit for brains say?'	Email
09/12/2021	'On and on it's just another yew in the world'	Microsoft Teams
23/02/2022	'A happy little yew'	Email
01/03/2022	'She will when I'm done with her...' (in response to a comment that a patient 'would never smile again')	Microsoft Teams
03/03/2022	'I'll bring the lube'	Microsoft Teams
18/03/2022	'Are you having beautiful difficulties getting into your lycra? Do you need some lube?'	Microsoft Teams
29/03/2022	'Can she reach the door to knock?'	Microsoft Teams
01/04/2022	'He is having a fabulous time inserted as promised'	Microsoft Teams
04/04/2022	'Come on gay XXX'	Microsoft Teams
08/04/2022	'greg style, with live sausage'	Microsoft Teams
15/04/2022	'With no lube'	Microsoft Teams
18/04/2022	'XXX, do you love me? Are you riding?'	Email
20/04/2022	'What are these m'ladies putting in their vaginas?'	Microsoft Teams
21/04/2022	'Can you tell him to take 10 days of ciprofloxacin and stop gregging each other?' 'I was kindly hiding behind XXX nose (nose emoji)'	Microsoft Teams

Record of Determinations –
Medical Practitioners Tribunal

22/04/2022	'I have so many women cycling at the well! I can't abandon them to the smelly doctor'	Microsoft Teams
25/04/2022	'Only essential yews get parking permits'	Microsoft Teams
05/05/2022	You sent an image of a woman looking up with mouth open and liquid dripping towards her mouth followed by a similar image where the woman is holding her finger to her mouth and her tongue is out	Microsoft Teams
26/05/2022	'Ideally, with XXX locked inside...' (in response to an email regarding keeping the door to the clinical waste room shut at all times)	Email
27/05/2022	(in response to a request to sign prescriptions) 'Hard? Cone Come Cum'	Microsoft Teams
21/06/2022	'Stick with the D you no'	Teams
25/06/2022	'XXX doushbag's testo is good...' 'and confirm with ogre'	Microsoft Teams
07/07/2022	'I told the morons to book her on Friday...'	Microsoft Teams
16/07/2022	'Hubby will need stitching ard'	Microsoft Teams
20/07/2022	'but not as tasty as my toti will always be' 'Yes take the peasant FB'	Microsoft Teams
22/07/2022	'Sounds like a job for alky'	Microsoft Teams
25/07/2022	'Tell her to GFY and stop making stupid comments' 'Yes stick with the treatment plan that stupid woman is confusing me' 'The HS morons are killing XXX after XXX...It's embarrassing'	Microsoft Teams
26/07/2022	'No just mine, that moron can't read English'	Microsoft Teams

The Admitted Facts

8. At the outset of these proceedings, through his counsel, Mr Tim Grey, Dr Psaroudakis made admissions to the entirety of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

9. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts as admitted, Dr Psaroudakis' fitness to practise is currently impaired by reason of misconduct.

Evidence

10. The Tribunal received a witness statement from Ms B, Patient Services Director and co-founder of the Evewell, dated 7 July 2023, on behalf of the GMC, who was not called to give oral evidence.

Documentary Evidence

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

On behalf of the GMC

- Grievance Report – summary findings, undated;
- Grievance Investigation, 27 July 2022;
- Disciplinary Investigation, 31 August 2022;
- Disciplinary Investigation Appendix, various;
- The Evewell's Employee Handbook, July 2022;
- Various items of correspondence between the Evewell and Dr Psaroudakis;
- Various Teams messages and screenshots between Dr Psaroudakis and Ms A.

On behalf of Dr Psaroudakis

- C.V;
- Testimonials, various;
- Social Media Course Certificate, 18 May 2023;
- Reflection on Social Media Course, undated;
- Equality and Diversity Training Course Certificate, 18 July 2023;
- Reflection on Equality and Diversity Training, undated;
- Patient Feedback, various;

- Various Continuous Professional Development ('CPD') courses;
- Professional Boundaries Awareness Course Certificate, 1 September 2023;
- Reflection on Professional Boundaries Awareness Course, October 2023;
- Professional Boundaries in Practice Course Certificate, 28 September 2023;
- Reflection on Professional Boundaries in Practice Course 27 October 2023;
- Maintaining Professional Boundaries Course Certificate, 19 October 2023;
- Personal Reflection, 26 October 2023;
- A statement from Mr C, Responsible Officer, dated 20 November 2023 (provided upon request of the GMC, submitted into evidence on behalf of Dr Psaroudakis).

12. Dr Psaroudakis provided a witness statement, dated 25 August 2023. Additionally, He provided oral evidence at this stage of the hearing. The Tribunal also heard oral evidence from Mr C, Dr Psaroudakis' Responsible Officer.

Summary of Dr Psaroudakis' oral evidence

13. Dr Psaroudakis told the Tribunal that he had a grievance with his former employer at the Ewell due to business decisions that were being taken and which, in his view, affected patient care. He confirmed that his concerns began towards the end of 2020, that he made a formal approach to Ewell to address matters in April 2021 and then made a formal grievance in July 2022. He said that he had become frustrated at work and that was his frame of mind during the period covering the allegations in this case. He said that he was told that he was being investigated and that he was subsequently suspended, and then he self-referred to the GMC. When asked why he self-referred to the GMC, he said that when looking at all the comments together they were embarrassing and that he felt ashamed.

14. Dr Psaroudakis told the Tribunal that he had made many mistakes and that he had transgressed the boundaries with Ms A having developed a kind of way of speaking to each other. For instance, with his accent replacing the 'J' for a 'Y' saying Yewish rather than Jewish. He said that it was a kind of silly inside joke. He accepted that his comments could be considered potentially as racist, sexist, sexually explicit or derogatory towards patients or colleagues.

15. Dr Psaroudakis told the Tribunal that this process had been a huge learning and self-improvement opportunity for him. He said there was no doubt he did things that were wrong with the language and comments he used and that they have absolutely no place in his role as a doctor. He said that he needed to correct as much as he can, make sure it does not happen again and that is where his CPD has helped and been eye opening.

16. In cross examination by Mr Moran, counsel on behalf of the GMC, Dr Psaroudakis accepted that lots of people for various different reasons, experience stress and frustration at work and that did not lead them to send abusive, racist, sexist messages. He said that he lost sight of the situation due to his frustrations with the circumstances at work and, rather than take the proper avenues, he expressed his thoughts in what he considered to be a

private and safe environment. He now accepts this was completely wrong. He said that it was never his intention to insult anybody directly. He said that this was his mistake and he apologised for it.

17. Both Mr Grey and Mr Moran took Dr Psaroudakis through a number of the comments he made which at Schedule 1 and he provided his view of the context and his explanations for them.

18. Mr Moran asked Dr Psaroudakis about his evidence that this process has made him confront his own beliefs and behaviour and deep-seated internal bias. Dr Psaroudakis said that he had consumed a lot of pop culture and he had used some of that to express his frustrations, but added that he had never treated anybody unfairly or said anything directly offensive to anybody. He said that this whole series of messages was hugely embarrassing and humiliating for him and that he did not nurture any negative feelings to anybody now, although he accepted that he had had a deep-seated bias towards the management team of the Ewell.

Submissions on behalf of the GMC

19. Mr Moran briefly referred to the evidence of Dr Psaroudakis in which he said that he had grievances with the management of the Ewell. Mr Moran said that the doctor has made very grave allegations about the Ewell but that these may be litigated in another legal forum. He said that neither he nor the management at the Ewell had the right to reply here, save to say the GMC did not accept what Dr Psaroudakis has said about the Ewell.

20. Mr Moran submitted that in respect of misconduct, and then impairment, much will depend on what view the Tribunal forms in what is a serious, if somewhat unusual case. He said that this was not the case where there are concerns about clinical care or patient safety. He said that a finding of misconduct and impairment was dependent on the Tribunal forming the view that these messages as a whole are so serious that misconduct and impairment should be found. He accepted that when considering some of the messages individually, they would not lead to Dr Psaroudakis fitness to practise being questioned. He said that it is the totality of them however that has to be considered. Mr Moran submitted that the Tribunal's assessment of the seriousness of the messages in part depends on what it will make of the explanations Dr Psaroudakis has given which may or may not reduce the apparent seriousness of the messages when taken at face value. He said that to reject the doctor's explanations, there would have to be some rational basis for it, either based in evidence or on a finding that his explanation simply lacked credibility.

21. Mr Moran accepted that it was clear these messages were not intended to be seen by any of the people to whom they caused offence. He said however, there was a degree of foreseeability that they might be seen, as Dr Psaroudakis was using company IT systems and that the company is entitled to monitor its own IT systems. He said that even if the doctor's views were not going to become more widely known, it remains highly offensive and troubling for a doctor to express such racist, sexist, sexually explicit and derogatory views. He

said they cannot be written off as his own harmless private thoughts. Mr Moran said that the messages largely speak for themselves, but that it was a matter for the Tribunal to determine and assess Dr Psaroudakis as a witness.

22. When assessing Dr Psaroudakis as a witness, Mr Moran submitted that there was at least one of the messages where the doctor's explanation is demonstrably false. He said that relates to the message about a patient's husband's suicide. Mr Moran said that the messages were extremely clear, as is the timing and sequence of them. He said at 12:08 the message was sent to Dr Psaroudakis stating that the patient's husband killed himself, that the doctor responded directly to that message saying that *'He smelled her shoes'*. Mr Moran said that the Tribunal may think the message is so repulsive that Dr Psaroudakis has been driven to not tell the truth in the face of what is the clearest possible evidence that he must have known that the patient had not just died but had taken his own life. Mr Moran pointed out that in evidence Dr Psaroudakis said that there was a telephone call between himself and Ms A in which he took her to be saying that the patient's husband had 'passed out', when she in fact said 'passed away'. Mr Moran said that if there had been a telephone conversation prior to the message, then why would Ms A send the message at all saying the patient's husband had passed away and, further, the message did not say 'passed away', it said the patient's husband *'killed himself on Tuesday'*. Mr Moran invited the Tribunal to conclude that Dr Psaroudakis did not tell the truth in this regard. He submitted however that this did not mean that Dr Psaroudakis has been dishonest about everything. He said that the doctor clearly has been honest about other aspects of his case, but that particular message was significant, and that Dr Psaroudakis was not someone who has been entirely candid, open and honest.

23. Mr Moran submitted that Dr Psaroudakis' remarks about Jewish people were perhaps the most serious aspect of this case. He said that there is a deep-seated bias that led to these messages, whether Dr Psaroudakis was able to recognise it or not. He said that if Dr Psaroudakis felt a degree of stress and frustration in the workplace then that is something that he shares with many other people in many different places of work and that that may cause them to cope with that in a variety of ways. However, he suggested, very few would resort to expressing it in such offensive messages in the way that this doctor has. Similarly, he said, when from time to time we all have suffered from personal family tragedies, that generally did not have the effect of causing people to send racist, sexist, and derogatory messages about their colleagues. He invited the Tribunal to consider that this had happened because there was a more deep-seated prejudice than Dr Psaroudakis has recognised which maybe only came to the surface in very unusual circumstances.

24. Mr Moran submitted that when considering the entirety of his messages, the GMC did not accept that Dr Psaroudakis was merely using the word 'Yew' or 'Yewish' as shorthand for 'the management' or 'the bosses'. He said that Dr Psaroudakis could have used any number of terms to refer to them. However, when looking at the messages as a whole, he was someone who was in the habit of coining offensive terms to describe people that he did not particularly like, whether it was *'alky'*, *'shit for brain'*, *'leprechaun'*, or other terms he referred to. Mr Moran said that the Tribunal may conclude that there was merit to the doctor saying that he adopted the words of a Pink Floyd song using [*on and on it's just another yew*

In the world.'] but even if he had, it begs the question why is he lamenting another Jewish person being born, or at the very least, it being interpreted in that way.

25. Mr Moran submitted that one thing that caused great upset within the Evewell and was of great concern was Dr Psaroudakis' use of the term '*wandering Jew*'. He noted the doctor's explanation that he did not know about the very offensive Nazi-era connotations of that term and that it was not something that is so well known outside of the Jewish community. Mr Moran invited the Tribunal to consider not whether the average person knew this, rather whether Dr Psaroudakis, a highly educated person, knew this.

26. Mr Moran also referred to another message in which Dr Psaroudakis was mocking the size of someone's nose and that it seemed, in the context of all the other messages, that it could be a reference to the offensive stereotype about Jewish people. Dr Psaroudakis had said that the person was not in fact Jewish, and there was no evidence to the contrary. Mr Moran said that whilst that comment was offensive and derogatory, he did not invite the Tribunal to conclude that this was a further example of a prejudicial comment about a Jewish person. He submitted that there are other comments in the schedule referring to '*Yew*' or '*Yewish*' and it was for the Tribunal to form its own view as to how serious they were but reminded it that the GMC's case was based on the totality of the messages, rather than considering any one individually.

27. Mr Moran submitted that Dr Psaroudakis' comments breached paragraphs 35, 36 and 65 of Good Medical Practice (2013) ('GMP'). He submitted that there was no statutory definition of misconduct but that it has to reach a certain level of seriousness, that it could relate to conduct that adversely affects the reputation of the profession, and therefore affects public confidence. Mr Moran submitted that the messages, when considered as a whole, were sufficiently serious to find misconduct, whatever Dr Psaroudakis' intentions. He said that the messages were reasonably interpreted by the Evewell in a way that caused great offence and had real consequences. Mr Moran submitted that misconduct was proven.

28. Mr Moran submitted that a finding of impairment was necessary to maintain proper professional standards of conduct and maintain public confidence in the profession. He submitted that confidence in the profession would be undermined if a finding of impairment was not made. He said that the Tribunal would need to carefully consider the issues of insight and remediation. He noted that there has been no repetition, that Dr Psaroudakis made admissions, expressed regret and completed various courses. He reminded the Tribunal, however, that its task was to consider how developed and complete Dr Psaroudakis' insight was. He said that there was still a question mark in that regard as there was an element of Dr Psaroudakis looking for excuses first as well as blaming the company rather than facing his own prejudice. Mr Moran submitted that even if the Tribunal was satisfied that insight and remediation were complete, this is in the category of cases where the seriousness of the conduct still required a finding of impairment.

Submissions on behalf of Dr Psaroudakis

29. Mr Grey referred the Tribunal to the facts admitted and found proved at Schedule 1, that the comments and images made were inappropriate in that they included messages that were derogatory towards patients, colleagues, sexually explicit, sexist, racist. He submitted that what is not alleged but what was apparently implied in the way that GMC sought to put their case was that Dr Psaroudakis was a racist. He said however, that was not the case the Tribunal were required to adjudicate upon and it therefore had no place in the test for misconduct in this case.

30. Mr Grey submitted that it was nonsensical that the Tribunal would have to come to its own view as to whether Dr Psaroudakis had a deep-seated prejudice. He said that what the Tribunal had to do is look at the messages and judge whether or not they of themselves amounted to misconduct, in the context in which they were sent, by whom and to whom they were sent. Mr Grey referred to the submission on behalf of the GMC in respect the question of dishonesty and paragraph 65 of GMP. He submitted that it was an outrageous submission and there is no allegation in this case of a lack of honesty or a lack of integrity.

31. Mr Grey invited the Tribunal to consider whether the matters were even capable of being misconduct and to consider the impact of the Article 8 European Convention on Human Rights ('ECHR') on the doctor. He submitted that in this case the evidence came from messages which Dr Psaroudakis sent from his own email account and through Microsoft Teams. He said that in respect of the emails, they were sent from Dr Psaroudakis' email address to another person's email address and that there could be no debate that had those been sent from a private user email address to another private user email address. He said that Article 8 made it abundantly clear that *"Everyone has the right to respect for his private and family life, his home and his correspondence."* And further that: *"There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."*

32. Mr Grey submitted that it was clear on the case law that Article 8 has application in these proceedings. He said that the principle set out in Article 8 supported what was happening in these messages in that Dr Psaroudakis was making and solidifying a relationship with the recipient, through the form of Microsoft Teams messages and emails. Whilst he accepted that the server was owned by the Evewell, he said that Article 8 goes on to say that whilst communications may be from a business premises, they may also be covered by the notions of private life and correspondence. He said the case law stated that domestic authorities should treat the following factors as relevant; whether the employee has been notified of the possibility that the employer might take measures to monitor correspondence and other communications, and the implementation of such measures whilst in practice, that employees may be notified in various ways depending on the particular circumstances of each case. Mr Grey submitted that the case law considers that for the measures to be deemed compatible with the requirements of the Article of the Convention, notification should normally be clear about the nature of the monitoring and be given an advance. He

submitted that this was crucial in this case as the Employee Handbook dated 22 July 2022, postdates the vast majority of these messages, and that Dr Psaroudakis was not provided with this Handbook until 2023, this being unchallenged evidence.

33. Mr Grey submitted therefore that Dr Psaroudakis' Article 8 privacy rights have been infringed in terms of the interrogation of emails and that this case falls at the first hurdle. He submitted that these were private messages sent to a single recipient, not for onward disclosure and that was Dr Psaroudakis' intention. Mr Grey also invited the Tribunal to consider Article 10 (ECHR) that everyone has the right to freedom of expression, which includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. He said that Article 10 was predominantly concerned with publications and public documents, but that these were not even public, rather they were very clearly private messages not meant for dissemination.

34. Mr Grey submitted that he did not doubt that the messages sent by Dr Psaroudakis would offend people, but when sent in that context of Article 10, that they did not amount to misconduct. He submitted that there was a distinction to be made in the relevant case law as to a private conversation and a public message on social media for instance. Mr Grey submitted that there was no risk to patient safety and that it was the GMC's position that this was a case based almost entirely on public confidence in the profession and maintaining and declaring of standards, and therefore that was the issue before the Tribunal.

35. When considering misconduct Mr Grey referred the Tribunal to the relevant principles in *Roylance v GMC (No.2) [2000] 1 AC 311*, *Nandi v GMC [2004] EWHC 2317 (Admin)* and *Remedy UK Ltd v GMC [2010] EWHC 1245 (Admin)*. He submitted that misconduct means something that is serious professional misconduct and that *Roylance* establishes that misconduct is a matter which is serious and professional. He said that the Tribunal's task was not to engage in assessing the views of Dr Psaroudakis, but to determine whether or not the messages amounted to misconduct. He said that for the conduct to amount to misconduct it must be serious, deplorable and worthy of the moral opprobrium that comes with a finding of misconduct. He said the ill-advised but personal messages sent by Dr Psaroudakis to a single colleague who was in no way shocked or upset by them cannot be so serious as to amount to misconduct. He submitted that there was absolutely no evidence Ms A, the recipient, was in any way disturbed or concerned by the messages and that the messages sent were insufficient to amount to serious professional misconduct.

36. Mr Grey submitted that the reason why we are here is because Dr Psaroudakis' former employers made a complaint about him to the GMC based upon these emails. He said that the emails themselves had been interrogated and downloaded without the doctor's knowledge and against his reasonable expectation of his Article 8 rights and that this was a counteroffensive by them against an employee who was 'making trouble'. He said that this did not matter for the Tribunal's purposes, but what matters is that the doctor had a strongly and authentically held belief which caused a complaint to be raised in April 2021, and that Dr Psaroudakis put in a formal grievance in July 2022. Mr Grey said that what followed was a disciplinary investigation, Dr Psaroudakis' suspension and ultimately the end of his working

relationship with his former employers. Mr Grey submitted that Dr Psaroudakis had had no access to these emails since he left at the Evewell and the Tribunal was therefore making a judgment on these emails entirely out of context and which was not fair in terms of the Tribunal's decision making task.

37. Mr Grey submitted that the Tribunal is required to look at things in a totally isolated manner, for instance, in respect of the comment made in an email 25 June 2022 states that "XXX doushbag's testo is good...". He said that perhaps understandably, the drafter of the schedule at the GMC thought 'douchbag' sounded like a rude word and so that must be rude. Mr Grey said however, the explanation was extremely straightforward from Dr Psaroudakis and one which he recalled, that the word *doushbag* was an autocorrect. Mr Grey submitted that this was illustrative of the fact that when considered in isolation, mistakes can be made without looking at the context in which these comments were made. Further, he invited the Tribunal to consider when Dr Psaroudakis made a derogatory comment about an individual having a big nose and the doctor was asked in cross examination by Mr Moran whether this individual was Jewish, but that comment clearly had no basis in antisemitism at all, rather that the context was misunderstood.

38. Mr Grey submitted that whilst the comments may be offensive, they were not offensive to the recipient. He said that even if they were offensive, they were not a breach of anything and no breach of GMP as submitted by Mr Moran and that this did not amount to misconduct.

39. In respect of impairment, Mr Grey referred the Tribunal to the test as set out in the case of *CHRE v NMC & Grant [2011] EWHC (Admin)*. He submitted that a finding of current impairment is required in circumstances where there was a risk to the public. He reminded the Tribunal that was not the case here but to the contrary that there was a wealth of evidence before the Tribunal that Dr Psaroudakis is considered very highly both by patients and by colleagues. He submitted the Tribunal have heard from Mr C, Dr Psaroudakis' Responsible Officer who spoke of the doctor's insight and in glowing terms. He referred the Tribunal to the testimonial evidence and said that there can be no question that this is an excellent doctor doing a good clinical job. Mr Grey said that it was difficult to see how Dr Psaroudakis could go any further in terms of insight and remediation and referred the Tribunal to Dr Psaroudakis' CPD and reflective statement.

40. Mr Grey reminded the Tribunal of an important, yet often forgotten part in the case of Grant, namely the distinction between the NMC and the GMC in that if the Tribunal concluded that there was misconduct in this case, and therefore the question of current impairment would have to be determined, it would have to assess it against the wider public interest element whether or not a finding of current impairment was necessary. He submitted that were the Tribunal to conclude that there was misconduct, despite his submissions, but that it did not require a finding of current impairment, then the consideration of a warning would be open to it.

41. Mr Grey submitted that, even if a finding of misconduct could follow, there could be no current impairment where there was no risk to the public and there was no requirement to uphold confidence in the profession, or to maintain and uphold standards when a doctor has acted in a private capacity by writing messages to a friend.

The Relevant Legal Principles for Misconduct and Impairment

42. 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.

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

44. The Tribunal reminded itself that it must determine whether Dr Psaroudakis' fitness to practise is impaired today, considering Dr Psaroudakis' conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remediated and any likelihood of repetition.

45. The Tribunal were mindful of the test for impairment, which is Dame Janet Smith's test in The Fifth Shipman Report, cited and approved in *CHRE v NMC and P Grant [2011] EWHC 927 (Admin)*:

- "a) Whether the registrant has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm;*
- b) Whether the registrant has in the past brought and/or is liable in the future to bring the profession into disrepute;*
- c) Whether the registrant has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.*

...

- 74 In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances."*

46. Throughout its deliberations, the Tribunal has been mindful of its responsibility to uphold the overarching objective as set out in the Medical Act 1983 (as amended). That objective is the protection of the public and involves the pursuit of the following:

1. *to protect, promote and maintain the health, safety and wellbeing of the public.*
2. *to maintain public confidence in the profession*
3. *to promote and maintain proper professional standards and conduct for members of the profession.*

The Tribunal’s Determination on Impairment

47. Having had regard to the submissions of both Mr Moran and Mr Grey, the Tribunal first considered whether it was permissible under Article 8 and 10 of ECHR for it to consider Dr Psaroudakis’ emails and messages sent to Ms A which led to the Allegation as admitted and found proved. It had regard to the ECHR during its deliberations.

48. The Tribunal were satisfied that its jurisdiction in regulatory proceedings such as these encompassed unacceptable conduct unrelated to clinical practice where such behaviour brings the profession into disrepute and concluded that private communications were not automatically exempt from regulatory proceedings. The GMC was entitled to seek to uphold proper standards within the medical profession even in relation to what otherwise might be regarded as private conduct. Further, that Dr Psaroudakis was using a work computer, on his employer’s server using its own software during periods when he was at work to send messages (whether emails or Teams conversations) to a work colleague and his messages included many about Ewell colleagues and his patients. He could have had no reasonable expectation that these messages were or would remain private and the Tribunal concluded that he would have been aware of the potential for these messages to become discovered, despite the timing of the employee handbook’s creation. He had no ability or right to prevent his employer carrying out checks on his email account which at all times remained Ewell’s property. Indeed, the Tribunal noted, he had shown Ewell some of his email messages in connection with his own grievance.

49. Accordingly, the Tribunal was satisfied that any employer had the right to check the content of emails and messages sent in those particular circumstances as they had been sent using their property, despite Dr Psaroudakis’ belief that the content of his messages was private, between himself and Ms A, and would not be disseminated to any other person.

50. Whilst Mr Grey referred the Tribunal to the ECHR Article 10 right to freedom of expression and Article 8 right to private life, the Tribunal also considered that, as concerns were brought to Dr Psaroudakis’ employer’s attention, they had a right to investigate those concerns, particularly when it related to concerns entailing sexist, racist, sexually explicit, derogatory and inappropriate language concerning both colleagues and patients.

51. Having satisfied itself of the basis under which the concerns became known to Ewell and the approach that it should take, the Tribunal went on to consider whether those

comments as set out in Schedule 1 amounted to misconduct. The Tribunal bore in mind that the GMC's case was based on the messages in their totality as opposed to individually. It considered a number of the comments in making its decision upon which it had heard oral evidence from Dr Psaroudakis. It was satisfied that it was the proper approach to look at the messages and their effect cumulatively and not in isolation or with a message by message approach.

52. Dr Psaroudakis told the Tribunal that he used the term 'Yew' or *Yewish* replacing the 'J' of Jewish with a 'Y', because of his accent. It became a shorthand way for him to refer to the management at Ewell. He said that this was not meant in a derogatory way or in an antisemitic way.

53. The Tribunal considered that there was evidence that Dr Psaroudakis did not just reserve this phrasing for the management of the Ewell, and it would have been much simpler and shorter for him to have referred to them as 'the bosses' or 'SMT' (senior management team) for example, in the same way he used the term 'SFB' referring to a colleague as *'shit for brains'*, a term which the Tribunal also considered to be reprehensible. The Tribunal was satisfied that the sustained use of the word "Yews" was racially offensive.

54. Dr Psaroudakis also made comments about Hammersmith being *'beautiful and Yew free'* suggesting that the area of Hammersmith would be improved if there were no Jewish people there. It rejected his explanation that he was only referring to the Ewell management and not Jewish people in general in that message. His use of the offensive term frequently elsewhere led the Tribunal to conclude that this part of his evidence was implausible. He also sent four pictures to Ms A entitled the *'wandering Jew'*, one of which he wrote next to it *'This is my favourite one'* with a smiling emoji and a trophy, and further wrote *'I think it will be your birthday present', 'I'll get a beautiful frame, and you can put it on your shelf(sic) ...'*. Whilst there was no evidence that Dr Psaroudakis was aware of the Nazi-era connotations of this term, the Tribunal was satisfied that Dr Psaroudakis had chosen to use it in an offensive way and that he had viewed other similar pictures before selecting these four for Ms A to consider.

55. Dr Psaroudakis said he also referred to the term *'inshallah'*; *'Some good news inshallah – did my pregnancy test this evening and it was positive!'* and, *'I also pray to inshallah that you will find your shoes'*. Dr Psaroudakis told the Tribunal that this referred to a member of staff who had actually misplaced her shoes. The Tribunal considered that this use of language was derogatory.

56. The Tribunal also considered Dr Psaroudakis' comments in respect of the patient whose husband took his own life where Dr Psaroudakis said of the deceased husband that *'He smelled her shoes?'*, referring to the patient. The Tribunal had regard to the submission of Mr Moran in which he set out that he had specially asked the doctor about this incident and the doctor made reference to a telephone call between himself and Ms A in which he took her to say the patient's husband had 'passed out', when she in fact had said 'passed away'. The Tribunal had before it no evidence of any such phone call and noted the context of the

message to which Dr Psaroudakis had responded which stated that *'[the patients] husband killed himself on Tuesday'*. The Tribunal did not accept Dr Psaroudakis' explanation as credible and considered such comments from a highly experienced medical professional about a patient's husband killing themselves to be appalling, disrespectful and morally reprehensible.

57. Dr Psaroudakis also referred to a colleague as an *'alky'* and another as having a *'big nose'*, both of which the Tribunal considered to be derogatory or inappropriate terms.

58. The Tribunal accepted that Dr Psaroudakis might have thought that these comments were being made in private and were not in a public forum or for public dissemination, and that Ms A had taken part in those comments and was not offended by them. However, they were made in a professional context in his capacity as an experienced senior medical profession whilst at work, on work software with a work colleague.

59. The evidence suggested that it was Dr Psaroudakis' common practice to pick out and use what could be considered offensive or derogatory characteristics about people whom he did not like or get along with, and liberally use those terms to describe them. Rather than use someone's name or work title, Dr Psaroudakis preferred to make unpleasant and unacceptable references to protected characteristics of colleagues. The Tribunal makes no finding that Dr Psaroudakis is a racist but is satisfied that he is someone who is quite comfortable with using discriminatory language.

60. The Tribunal considered that the sexist, racist, sexually explicit derogatory and inappropriate language towards both colleagues and patients was not a one off and it was repeated on multiple occasions over a lengthy period of time. The Tribunal considered this conduct in its totality to be morally reprehensible.

61. In oral evidence, Mr Grey asked Dr Psaroudakis about the way in which he expressed himself, whether he thought in Greek or English. Dr Psaroudakis said that he thought in Greek and then translated into English and often had to be corrected in the mistakes he made then when he spoke English. The Tribunal noted however that when Dr Psaroudakis was giving evidence, he did not seem to pause or have any difficulty in understanding, comprehension or translating to English in his head. Further, Dr Psaroudakis answered quickly and there have been no issues raised that the Tribunal was aware of in respect of the doctor's knowledge or understanding of English. It noted that he had been UK-educated and become an experienced medical practitioner in the UK for some twenty years. The Tribunal concluded that Dr Psaroudakis was fluent in English. It did not therefore accept the contention that a difficulty in translating was a credible reason for any of the inappropriate or derogatory comments made.

62. The Tribunal determined that paragraphs 35 and 36 of GMP were engaged in this case:

'35. You must work collaboratively with colleagues, respecting their skills and contributions.'

36. You must treat colleagues fairly and with respect.'

63. For these reasons the Tribunal determined that Dr Psaroudakis' comments in respect of the facts admitted and found proved amounted to conduct which was morally reprehensible and amounted to serious professional misconduct.

Impairment

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

65. The Tribunal considered whether Dr Psaroudakis' misconduct was capable of being remediated, has been remediated, and whether it was likely to be repeated, and balanced those against the three limbs of the statutory overarching objective.

66. The Tribunal was satisfied that there were no patient safety concerns in this case. It was also satisfied that Dr Psaroudakis' conduct was capable of being remediated. When considering whether Dr Psaroudakis has remediated his conduct it considered the following: his self-referral to the GMC, his early and complete admission to the entirety of the Allegation; his expressions of apology, remorse and of feeling ashamed for his conduct; the CPD evidence including courses targeted at remediating his specific conduct; his reflective statement; the testimonial evidence; his oral evidence of undertaking counselling sessions; his engagement of a mentor; the positive statement and oral evidence from his responsible officer. It further noted that there was no evidence before it of any fitness to practise concerns prior to these incidents, or since these matters came to light.

67. The Tribunal was satisfied that Dr Psaroudakis had taken steps to remediate his conduct and that he had a degree of insight into his conduct.

68. Whilst the Tribunal was encouraged by Dr Psaroudakis' attempts at remediation and his developing insight, it was not satisfied however that the risk of repetition was unlikely at this stage. It considered that the conduct was persistent, repeated over a lengthy period of time, and that it was only recently that he has gained a mentor and counsellor both of whom he has only seen for a relatively short period of time. The Tribunal had before it no report from the counsellor as to Dr Psaroudakis progress or in how he has reflected on his conduct. Even on Dr Psaroudakis' own account, he had only very recently engaged her services.

69. The Tribunal also considered that whilst the evidence and report from Dr Psaroudakis' Responsible Officer, Mr C, was positive, it considered that Dr Psaroudakis is now in a much happier workplace situation than he was at the Ewell and has not yet been in similar circumstances with work stressors and challenges he claims to have faced when he was at the Ewell. He has only been in his new role for a relatively short period of time with Mr C as his Responsible Officer. The Tribunal had concerns about how Dr Psaroudakis would react

were he to be placed in a similar situation again. It was satisfied that it was no excuse for him to have made the offensive postings in the Allegation purely because he was under stress and/or had he had suffered the loss of his father. It could not be fully satisfied that it had enough information to be reassured that the risk of repetition was low.

70. The Tribunal determined that limbs 2 and 3 of the overarching objective were engaged and a finding of impairment was necessary in order to maintain public confidence in the profession and to promote and maintain proper professional standards and conduct for members of the profession.

71. The Tribunal therefore determined that Dr Psaroudakis' fitness to practise is currently impaired by reason of his misconduct.

Determination on Sanction - 14/12/2023

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

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts and impairment stages of the hearing.

Submissions on behalf of the GMC

3. Mr Moran submitted that the appropriate sanction in this case is one of suspension at the upper end of the range. He referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (16 November 2020) ('SG') and to the overarching objective. He submitted that limbs 2 and 3 of the overarching objective were engaged in this case, namely, the need to promote and maintain public confidence in the profession and to promote and maintain proper standards and conduct for the members of the profession.

4. Mr Moran identified the following mitigating factors in this case: the messages sent by Dr Psaroudakis were not meant to be in the public domain; Dr Psaroudakis has carried out remediation; that there is a body of evidence as to his clinical skills and practice which the Tribunal may find impressive; there is a lack of previous fitness to practise concerns. Mr Moran submitted that insight in this case was not entirely straightforward, based on the Tribunal's findings, rather that it was nuanced, in that there was a degree of insight.

5. In terms of aggravating factors, Mr Moran submitted that there was: Dr Psaroudakis' failure to work collaboratively with colleagues; and discrimination against patients, colleagues and other people, as identified in the SG. He said this might be better expressed in

this particular case as discriminatory comments, but that the list in the SG was non exhaustive.

6. Mr Moran reminded the Tribunal of its Stage 2 findings. He submitted that at this stage the GMC relied upon the fact that the Tribunal was satisfied that the sustained use of the word ‘Yews’ was racially offensive. Mr Moran said that it was a significant finding by the Tribunal where it had rejected Dr Psaroudakis’ explanation that he was only referring to the management and not Jewish people in general in his comment ‘Hammersmith being beautiful and yew free’. In respect of the patient whose husband took his own life, Mr Moran said that the Tribunal did not accept Dr Psaroudakis’ explanation as credible and concluded that the comments were appalling, disrespectful and morally reprehensible. He referred the Tribunal to its finding that the racist, sexist, sexually explicit, derogatory language towards colleagues and patients was not a one off and was repeated on multiple occasions over a lengthy period of time. Mr Moran further relied upon the Tribunal’s decision that it was not satisfied that the risk of repetition was unlikely at this stage.

7. Mr Moran submitted that there were clearly no exceptional circumstances in this case for the Tribunal to take no action. He said that it was also difficult, if not impossible, to see what workable conditions could be applied to the facts of this case. He submitted however, in any event, that conditions would not meet the seriousness of the case.

8. Mr Moran then referred the Tribunal to the relevant paragraphs of the SG which he submitted were engaged in this case:

“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...”

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.

...

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.

...

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.”

9. Mr Moran submitted that paragraph 93 should not be read as meaning that the Tribunal cannot suspend a doctor where it finds there is some risk of repetition. In respect of paragraph 97g, Mr Moran submitted that this paragraph was not entirely straightforward to apply to the Tribunal's findings as it found that Dr Psaroudakis has a degree of insight, but also that there was a degree of risk of repetition.

10. Mr Moran submitted that when determining the length of any suspension up to 12 months, the Tribunal should consider the factors set out in the SG, such as the risk to patient safety/ public protection. He submitted that this was not a patient safety case. He noted the seriousness of the findings and any mitigating or aggravating factors and the need to ensure that the doctor has adequate time to remediate. Finally, Mr Moran submitted that erasure would not be appropriate.

Submissions on behalf of Dr Psaroudakis

11. Mr Grey submitted that, to his credit, Dr Psaroudakis acknowledged that given the nature and the extent of the Tribunal's determination on impairment, the sanction that he likely faced was one of suspension. He referred the Tribunal to the relevant paragraphs of the SG, and in particular, those in respect of mitigating factors. He submitted that a Tribunal is less able to take mitigating factors into account when the concern is about patient safety, or the concerns are of a more serious nature. He said that this is a case about public confidence in the profession case and so the mitigating factors may weigh more heavily in the balance than if there were a risk to patients or patient safety.

12. Mr Grey submitted that there was no question that Dr Psaroudakis understands the problem and has a level of that insight that this Tribunal has adjudged to not be fully developed. He said that insight was a journey, for how long was a matter for the Tribunal's judgment, but that there was no question that Dr Psaroudakis does have insight and he has attempted to address and remediate the issues. Mr Grey submitted that there had been some success in terms of remediation and that, since these events occurred, there have been no further complaints. He submitted that Dr Psaroudakis has clearly been adhering to Good Medical Practice and prior to these events, there is no previous history. He said that the Tribunal has reflected in its determination its concern about risk. Mr Grey submitted that there were a particular set of circumstances that came together that put significant pressure

on the doctor: his understanding of the working practices he was engaged in which he did not approve of, rightly or wrongly; and the bereavement he was suffering with his father dying during the COVID pandemic and his inability to be in touch with him. Mr Grey submitted that those factors put extreme stress on Dr Psaroudakis and clearly led to his behaviour.

13. Mr Grey submitted that when one considers what happened before, and what has happened since, the behaviour was out of character. He submitted that there had been an 18-month period, and in some cases a two-year lapse of time since these events. Mr Grey submitted that this time has enabled Dr Psaroudakis to develop some insight and undertake some remediation. In terms of doing things differently in the future, Mr Grey submitted that the Tribunal has heard from Dr Psaroudakis, his responsible officer and from those who know him well and understand what was going on at the time. He said that they have confirmed that Dr Psaroudakis' attitude has changed, from which the Tribunal may feel reassured that things would happen differently in the future and that Dr Psaroudakis recognised why they happened in the first place. Mr Grey submitted that: Dr Psaroudakis has addressed his conduct and his behaviour to a degree and continues to do so; he has undertaken coaching; has a mentor, training and has started rehabilitation to the extent that he has undertaken the appropriate continuous professional development to make sure that he understands and develops the type of reflection and insight the Tribunal has documented and that he has talked about. Mr Grey submitted that there is a depth to Dr Psaroudakis' mitigation.

14. Mr Grey referred the Tribunal to Dr Psaroudakis' numerous testimonial evidence from colleagues and patients alike. He urged the Tribunal to look again at those testimonials. He said that there is nothing to suggest that Dr Psaroudakis is anything other than a clinically very able and well-respected doctor who has the respect of colleagues and patients and that those testimonials bear a considerable amount of weight when looked at in the round. He said that there have been expressions of regret and apology from Dr Psaroudakis, he self-referred to the GMC and he admitted all the allegations in this case. He submitted that this goes to Dr Psaroudakis' credit in terms of insight and also in terms of being open and honest. He said the doctor has shown contrition and a sense of understanding where things have gone wrong, albeit that it is an ongoing journey.

15. In terms of insight, Mr Grey submitted that there can be no doubt that Dr Psaroudakis accepts that he should have acted and behaved differently, that he has taken steps to remediate, and has demonstrated the timely development of some insight, although not fully developed. Mr Grey submitted that Dr Psaroudakis' insight should be considered as a mitigating factor in his favour. Mr Grey also set out in detail Dr Psaroudakis' personal mitigation and how any suspension would affect him, his family, his patients and his secretary as he is self-employed.

16. In respect of aggravating factors, Mr Grey referred to the Tribunal's Stage 2 decision that Dr Psaroudakis had failed to work collaboratively with colleagues, and that this was in breach of Good Medical Practice. He said that he did not seek to go behind that decision, but that he wished to distinguish that there was no suggestion or evidence that colleagues were

made aware of Dr Psaroudakis' comments or that it directly affected the collaborative working relationship with those colleagues. In respect of the GMC's submission of discrimination against patients, colleagues and other people as an aggravating factor in this case, Mr Grey submitted that it would more accurately be made out if the Allegation said 'discriminatory comments'. He said that an aggravating factor is one which sits outside the nature of the Allegation and that an allegation cannot be aggravated by something that is inherent within it. Mr Grey submitted therefore that this simply cannot apply as an aggravating factor.

17. When determining what sanction to impose, Mr Grey accepted that the Tribunal would consider taking no action or imposing a suspension. He said that whilst taking no action was unlikely, he invited the Tribunal to consider it as there were exceptional circumstances in this case in that private messages had become public. He accepted however that suspension was the likely territory of sanction and invited the Tribunal to consider very carefully the length of that suspension. He referred the Tribunal to Dr Psaroudakis' extensive mitigation as relevant factors to consider when determining the length of a suspension as set out in the SG.

18. Mr Grey said that Dr Psaroudakis has four further appointments with his coach. He referred the Tribunal to its' impairment determination in which it commented that it had no report from that coach. Mr Grey said that these were private sessions and they would not become subject of a report. He said Dr Psaroudakis had an appointment next week, and more were planned for every two weeks. Mr Grey said that those sessions were then likely to finish at the end of January and it will be considered at that time whether or not further sessions would be of benefit. However, the reality was that the doctor will be nearing the end of the intervention considered necessary as he understood it. He submitted that where the SG refers to full insight, he would refer to as ongoing insight, as no one can have full insight. He submitted therefore that a suspension towards the lower end was appropriate in the circumstances of this case.

The Tribunal's Determination on Sanction

19. The decision as to the appropriate sanction to impose, if any, is a matter for the Tribunal alone, exercising its own judgement. The Tribunal has given careful consideration to all evidence adduced in this case, both oral and documentary, when reaching a decision on sanction. The Tribunal also had regard to the findings they made at the impairment stage as well as the submissions made by Mr Moran on behalf of the GMC and Mr Grey on behalf of Dr Psaroudakis.

20. The Tribunal reminded itself that the GMC's overarching statutory objective in section 1(1A) of the Medical Act 1983, as amended, is the protection of the public. Sub-sections (b) and (c) of section 1(1B) provide that the pursuit of their overarching objective includes to protect and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

21. In reaching its decision, the Tribunal must give careful consideration to the principles within the SG. It should consider the sanctions available, starting with the least restrictive and then consider each sanction in ascending order. It should also have regard to the principle of proportionality, weighing the interests of the public against those of the doctor. It recognised that sanctions are not imposed to punish or discipline doctors, but they may have a punitive effect.

Aggravating and Mitigating Factors

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

Aggravating factors

23. The Tribunal was satisfied that Dr Psaroudakis' failure to work collaboratively with colleagues was an aggravating factor in this case.

24. It considered the submission of Mr Moran that discrimination against patients, colleagues and other people, as set out in the SG, was an aggravating factor and the opposing submissions of Mr Grey that the misconduct was in respect of private comments as opposed to discrimination against patients, colleagues and that in any event an aggravating factor should be a feature that is outside something inherent within the Allegation. It accepted Mr Grey's submission that the discriminatory comments could not be an aggravating factor as they were inherent in the nature of the factual allegation.

Mitigating factors

25. Dr Psaroudakis admitted his wrongdoing, made full admissions to the allegation, and has taken steps to remediate his actions. He has made genuine expressions of regret, remorse and apology, and not sought to blame others. Dr Psaroudakis self-referred to the GMC and has fully engaged with his regulator and with this process and he cooperated with the GMC by disclosing the emails and messages of his comments when requested. His comments were intended to be private and never meant to be made public.

26. Dr Psaroudakis has worked hard in taking steps to remediate and develop his insight into his actions. He has completed several courses aimed at remediation and developing insight, and undertaken significant continuous professional development. Dr Psaroudakis has recognised how the incident started and why it occurred. He has adhered to Good Medical Practice and there have been no previous fitness to practise concerns prior to or since those before this Tribunal. Dr Psaroudakis is of previous good character and he has provided positive testimonials and a positive report from his responsible officer. Dr Psaroudakis does have both personal and professional mitigation in terms of responsibility to his family, his patients and to his secretary as he is self-employed, and in respect of a family bereavement.

27. The Tribunal bore in mind the above aggravating and mitigating factors throughout its deliberations on the appropriate and proportionate sanction to impose, if any. The Tribunal went on to consider each sanction in ascending order of severity, starting with the least restrictive.

No action

28. The Tribunal first considered whether to conclude the case by taking no action.

29. The Tribunal agreed that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that there are no exceptional circumstances in this case. It determined that given its findings in relation to misconduct, it would not be sufficient, proportionate, nor in the public interest to conclude this case by taking no action.

Conditions

30. The Tribunal next considered whether to impose conditions on Dr Psaroudakis' registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

31. The Tribunal was of the view that no suitable conditions could be formulated for the circumstances of this case. The Tribunal therefore did not consider the imposition of conditions as a proportionate and appropriate sanction in this case.

Suspension

32. The Tribunal went on to consider whether a period of suspension would be appropriate. The Tribunal considered all the evidence in this case alongside the relevant paragraphs of SG.

33. It noted that 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 that is considered to be unbecoming a registered doctor. It also acknowledged that suspension will be an appropriate response to misconduct that is so serious that action must be taken to maintain public confidence in the profession. The Tribunal considered that, in the circumstances of this case, the doctor's conduct was so serious that action was required to maintain public confidence in the profession. The Tribunal did not consider that Dr Psaroudakis posed any future risk of harm to patients.

34. The Tribunal noted that the SG also states that a period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration. The Tribunal did not consider that Dr Psaroudakis' misconduct was fundamentally incompatible with continued registration. In these circumstances complete removal from the medical register would not be in the public interest.

35. The Tribunal considered that paragraphs 97a, e, f and g, as set out in Mr Moran’s submission were engaged in this case.

36. The Tribunal reminded itself that Dr Psaroudakis’ misconduct related to concerns entailing sexist, racist, sexually explicit, derogatory and inappropriate language in messages concerning both colleagues and patients. It was repeated on multiple occasions over a lengthy period of time and the Tribunal considered this conduct in its totality to be serious and morally reprehensible.

37. The Tribunal was satisfied, weighing all the factors, including the interests of Dr Psaroudakis, against the need to meet the overarching objective, that a period of suspension was the appropriate and proportionate response in this case.

Length of Suspension

38. In determining the length of suspension, the Tribunal had regard to the relevant paragraphs of the SG.

39. The Tribunal considered the aggravating factor in this case balanced against the mitigating factors. It considered that there were no patient safety concerns in the case, and that the length of any suspension would need to reflect the seriousness of the conduct and would serve to maintain public confidence in the profession and to promote and maintain proper professional standards and conduct for members of the profession.

40. The Tribunal determined therefore to suspend Dr Psaroudakis’ registration for a period of 3 months. It determined that this period reflected the level of seriousness of the misconduct and would send out a message to the doctor, the profession and to the public that such conduct is unacceptable.

41. When considering whether to direct a review hearing or not, the Tribunal bore in mind Dr Psaroudakis’ level of insight. It was satisfied that he had insight but that it was not yet fully developed, although it noted the extensive steps taken. It was moreover encouraged by the hard work Dr Psaroudakis has done and was continuing to do. It encouraged Dr Psaroudakis to continue the work in this way both on his insight, and with his coach.

42. The Tribunal considered that weighing the mitigating factors with the level of Dr Psaroudakis’ insight, a review hearing was not necessary in this case.

Determination on Immediate Order - 14/12/2023

72. Having determined to suspend Dr Psaroudakis' registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order.

Submissions

73. On behalf of the GMC, Mr Moran submitted that an immediate order was not being sought in this case but that it is a matter for the Tribunal.

74. On behalf of Mr Psaroudakis, Mr Grey submitted that an immediate order was not necessary as there is no risk to the public and no risk of repetition given the change of circumstances the Tribunal has noted at paragraph 69 of the impairment decision. He also submitted that there is no interim order in place and in those circumstances, there is no necessity for an immediate order. He said that in any event, the GMC do not invite the Tribunal to make such an order.

The Tribunal's Determination

75. The Tribunal had regard to paragraphs 172 to 178 of the SG. It took account of the guidance, the submissions of both parties and the specific basis upon which the Tribunal reached its determination on sanction.

'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...'

76. The Tribunal determined that the substantive order properly marks the seriousness of Dr Psaroudakis' misconduct and upholds the overarching objective in maintaining public confidence in the profession and maintaining proper professional standards. It considered that in the absence of any concerns about patient safety, an immediate order would not be necessary in this case.

77. The Tribunal therefore determined not to impose an immediate order of suspension on Mr Psaroudakis' registration.

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

79. There is no interim order to revoke.

80. That concludes the case.

Record of Determinations –
Medical Practitioners Tribunal

SCHEDULE 1

DATE	COMMENT/IMAGE	FORUM
21/09/2020	'me too but temple rules are different...'	Microsoft Teams
22/09/2020	'nothing's better than the temple'	Microsoft Teams
16/12/2020	(in response to a message from a patient that read: <i>Some good news inshallah – did my pregnancy test this evening and it was positive!</i>) 'I also pray to inshallah that you will find your shoes'	Email
21/12/2020	'I think there are some cracks on the ceiling, the whole temple is collapsing without the naughty toti'	Microsoft Teams
31/12/2020	'Me too, I've got my red shoes ready and my black bitches waiting!'	Microsoft Teams
25/01/2021	'Try as much as you like, you are not going anywhere, I have XXX approval to chain you to the temple'	Microsoft Teams
26/03/2021	'I think it's a yewish holiday'	Microsoft Teams
05/04/2021	You sent a photograph of your hand with cuts on it followed by the comment: 'Also we need to stop making fun of the yews. I'm getting stigmata...'	Microsoft Teams
09/05/2021	'come on you promised, hammersmith will be beautiful and yew free'	Microsoft Teams
27/05/2021	(in reference to a patient) 'because she just had to have her boobs done'	Email
17/06/2021	'bye bye aldi, tell the idiot to fire her now before we get stuck with this'	Microsoft Teams

Record of Determinations –
Medical Practitioners Tribunal

20/07/2021	You sent a link to the Urban Dictionary definition of 'Gregging' which states: <i>"Gregging' is the process by which an individual masturbates into a hat. Though this is its definition, it can also be used to describe an individual..."</i>	Microsoft Teams
21/07/2021	You signed off an email 'XXX (XXX Bitch)'	Microsoft Teams
30/07/2021	'Do you know if she arranged the bloods for the OE patient (the manager not Alcohol XXX)?'	Email
04/08/2021	You sent four images that are named 'Wandering Jew' The comment by one of the images was 'I was approached by a humongous Range Rover but managed to wander away'	Email
05/08/2021	'Because she's busy freeing willy' 'He smelled her shoes?' (this was in response to an email informing you that a patient's husband had committed suicide) 'I forgot alky!'	Email
06/08/2021	'No lube required?' 'No sex (not even gregging) bed rest 48h' 'they are clowns, I think my resignation may come before yours'	Email
16/08/2021	'under dog shit'	Email
17/08/2021	'Lube me up toti'	Email
19/08/2021	'and tenderly join me for some post covid gregging'	Email
22/08/2021	'Don't worry I've already told them and XXX that they are dickheads'	Email
02/09/2021	'just good old fashioned gregging'	Email

Record of Determinations –
Medical Practitioners Tribunal

05/09/2021	'She went hard, now she's going home'	Email
08/09/2021	'Fucking XXX, fucking stupid intralipid call they can all GTF'	Email
11/09/2021	'it's beautiful, the leprechaun and XXX are almost the same size'	Email
21/09/2021	'I can't think of a reason for looney tunes' (referring to a patient)	Email
27/09/2021	'if we hire another woman I'm going to kill myself'	Email
06/10/2021	'the last EC was her patient, and she was lumped with the fat one instead...'	Email
19/10/2021	'We are supporting the get your fanny out week...'	Email
22/10/2021	'but XXX...I give up these people are idiots, im just wasting my precious freddies on them' 'but XXX a complete disaster, waste of my pick pocket skills'	Email
28/10/2021	'toad!!! Viva XXX the frog'	Email
29/10/2021	'I no it's fucking useless, was it XXX or toad?'	Email
21/09/2021	'Maybe she's in Octoberfest with alky?'	Email
10/11/2021	'Are you available for a quick gregging?' 'Do you want some lube?' 'the IC the leprechaun booked has a lower AMH than XXX's mum' 'in the time of Stonehenge this was cured with a good bone broth and child sacrifice, officiated by XXX the Druid...'	Email
19/11/2021	'What did shit for brains say?'	Email
09/12/2021	'On and on it's just another yew in the world'	Microsoft Teams
23/02/2022	'A happy little yew'	Email
01/03/2022	'She will when I'm done with her...' (in response to a	Microsoft Teams

Record of Determinations –
Medical Practitioners Tribunal

	comment that a patient ‘would never smile again’)	
03/03/2022	‘I’ll bring the lube’	Microsoft Teams
18/03/2022	‘Are you having beautiful difficulties getting into your lycra? Do you need some lube?’	Microsoft Teams
29/03/2022	‘Can she reach the door to knock?’	Microsoft Teams
01/04/2022	‘He is having a fabulous time inserted as promised’	Microsoft Teams
04/04/2022	‘Come on gay XXX’	Microsoft Teams
08/04/2022	‘greg style, with live sausage’	Microsoft Teams
15/04/2022	‘With no lube’	Microsoft Teams
18/04/2022	‘XXX, do you love me? Are you riding?’	Email
20/04/2022	‘What are these m’ladies putting in their vaginas?’	Microsoft Teams
21/04/2022	‘Can you tell him to take 10 days of ciprofloxacin and stop gregging each other?’ ‘I was kindly hiding behind XXX nose (nose emoji)’	Microsoft Teams
22/04/2022	‘I have so many women cycling at the well! I can’t abandon them to the smelly doctor’	Microsoft Teams
25/04/2022	‘Only essential yews get parking permits’	Microsoft Teams
05/05/2022	You sent an image of a woman looking up with mouth open and liquid dripping towards her mouth followed by a similar image where the woman is holding her finger to her mouth and her tongue is out	Microsoft Teams
26/05/2022	‘Ideally, with XXX locked inside...’ (in response to an email regarding keeping the door to the clinical waste room shut at all times)	Email
27/05/2022	(in response to a request to sign prescriptions) ‘Hard?’	Microsoft Teams

Record of Determinations –
Medical Practitioners Tribunal

	Cone Come Cum'	
21/06/2022	'Stick with the D you no'	Teams
25/06/2022	'XXX doushbag's testo is good...' 'and confirm with ogre'	Microsoft Teams
07/07/2022	'I told the morons to book her on Friday...'	Microsoft Teams
16/07/2022	'Hubby will need stitching ard'	Microsoft Teams
20/07/2022	'but not as tasty as my toti will always be' 'Yes take the peasant FB'	Microsoft Teams
22/07/2022	'Sounds like a job for alky'	Microsoft Teams
25/07/2022	'Tell her to GFY and stop making stupid comments' 'Yes stick with the treatment plan that stupid woman is confusing me' 'The HS morons are killing XXX after XXX...It's embarrassing'	Microsoft Teams
26/07/2022	'No just mine, that moron can't read English'	Microsoft Teams