Record of Determinations –
Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 24/06/2019 - 18/07/2019

Medical Practitioner's name: Dr Edward POOLEY

GMC reference number: 6146580

Primary medical qualification: MB ChB 2006 Leicester Warwick Medical School

Type of case
New - Misconduct

Outcome on impairment
Impaired

Summary of outcome
Suspension, 3 months.

Tribunal:

Lay Tribunal Member (Chair)	Mr Sean Ell
Lay Tribunal Member:	Mrs Michele Clare
Medical Tribunal Member:	Dr Priya Iyer

Legal Assessor:	Mr Rob Ward (24/06/2019 - 26/06/2019 and 01/07/2019 - 18/07/2019) Mrs Julia Oakford (27/06/2019 - 28/06/2019)
Tribunal Clerk:	Miss Emma Saunders (24/06/2019 - 05/07/2019 AM and 09/07/2019 - 18/07/2019) Ms Rosanna Sheerin (05/07/2019 PM) Ms Esther Morton (08/07/2019)

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Andrew Colman, Counsel, instructed by RadcliffesLeBrasseur
GMC Representative:	Mr Bob Sastry, Counsel

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

Overarching Objective

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

Determination on Facts - 12/07/2019

Background

1. Dr Pooley qualified in 2006 with a MBChB from Leicester and Warwick Medical School and, prior to the events which are the subject of this hearing, carried out foundation training in Nuneaton and Tamworth before completing General Practitioner (GP) training from 2008 to 2011.

2. At the time of the events Dr Pooley was working in a GP Partner post at the Somercotes Medical Centre from 2011 to August 2018. Dr Pooley also carried out ad hoc sessions as an online GP for White Pharmacy, an online private healthcare company, from November 2015 to May 2017 and the Online Clinic between June 2018 and July 2018. Dr Pooley is currently working at the Park Medical Practice in Derby and the Beechdale Medical Group in Nottingham.

3. The Allegation that has led to Dr Pooley's hearing relates to allegations by the General Medical Council (GMC) that Dr Pooley inappropriately prescribed opioid medications to patients from online services, White Pharmacy and The Online Clinic. It is alleged that Dr Pooley failed to obtain an adequate medical history or to adequately assess Patients A to S. Dr Pooley did not have access to the patients' GP records, instead primarily referring to an online questionnaire that was completed by each patient when they placed their order.

4. Patients A to D and G to O refused to provide consent to Dr Pooley to contact their GPs. It is alleged that Dr Pooley did not obtain an adequate medical history and did not assess the patients properly in circumstances where the medication prescribed had habit forming potential. This undermined any possible support needs of the patients pertaining to dependence on prescribed drugs. It is alleged that Dr Pooley prescribed the opioid medication without adequate and appropriate safeguarding, given the risk of dependency, and undermined possible support needs pertaining to opioid dependence.

5. On 25 May 2017 the Care Quality Commission (CQC) referred Dr Dharmasena, whose case is joined to this case, to the GMC regarding the treatment provided to a number of patients. The GMC also received a number of complaint letters from GPs whose patients had been prescribed opioid medication by Dr Pooley via White Pharmacy and The Online Clinic.

The Outcome of Applications Made during the Facts Stage

6. The Tribunal refused the GMC's application, made pursuant to Rule 16A(2)(b) of the GMC (Fitness to Practise Rules) 2004 as amended ('the Rules'), to exclude the expert report prepared on Dr Pooley's behalf. The Tribunal's full decision on the application is included at Annex A.

7. The Tribunal granted Mr Colman's application to hear Dr T's evidence out of turn, namely before Dr Pooley's oral evidence. The Tribunal's full decision on the application is included at Annex B.

8. The Tribunal determined, pursuant to Rule 34(13) and (14) of the Rules, that Dr U could give his evidence via telephone on 4 July 2019. Dr U had given evidence in person during the preceding four working days and this was a practical step to ensure that his evidence could be concluded in an appropriate timeframe.

9. The Tribunal granted Mr Colman's application, made pursuant to Rule 34(13) and (14) of the Rules, that Dr T could give his evidence by video link because of his availability and for practical reasons in terms of travel arrangements. In the end, Dr T was able to attend the hearing to give evidence in person.

10. The Tribunal determined to amend the word 'prescriptions' to 'prescription' in respect of a number of paragraphs of the Allegation, in accordance with Rule 17(6) of the Rules. The schedule to the Allegation lists only one prescription in respect of Patients E, K, L and S and so the references to 'prescriptions' are incorrect in those instances. The Tribunal determined that the amendments could be made without injustice to either party.

11. The Tribunal granted the GMC's application, made pursuant to Rule 17(6) of the Rules, for the amendment of the Allegation. This amendment was agreed by all parties. The amendment was to add the word 'primarily': *"your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates".* This accurately reflected the information before the Tribunal and the amendment was made in respect of all of the patients, Patients A to S.

The Allegation and the Doctor's Response

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

Patient A

1. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient A, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient A;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient A;
Admitted and found proved

dd. you took Patient A's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient A;
Admitted and found proved

cc. you failed to examine Patient A;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient A;
Admitted and found proved

ee. you took Patient A's self-report at face value.

To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient A refused to allow you to inform their GP.
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 1(a)(i)- (v) and despite the information at paragraph 1(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient A to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 1(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient A pertaining to dependence upon prescribed drugs.
Admitted and found proved

<u>Patient B</u>

2. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient B, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were <u>primarily</u> based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient B;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient B;
Admitted and found proved

dd. you took Patient B's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient B;
Admitted and found proved

cc. you failed to examine Patient B;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient B;
Admitted and found proved

ee. you took Patient B's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient B refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 2(a)(i)- (v) and despite the information at paragraph 2(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient B to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 2(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient B pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient C

3. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient C, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient C;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient C;
Admitted and found proved

dd. you took Patient C's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;

Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient C;
Admitted and found proved

cc. you failed to examine Patient C;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient C;
Admitted and found proved

ee. you took Patient C's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient C refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 3(a)(i)- (v) and despite the information at paragraph 3(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient C to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 3(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient C pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient D

4. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient D, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient D;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient D;
Admitted and found proved

dd. you took Patient D's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient D;
Admitted and found proved

cc. you failed to examine Patient D;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient D;
Admitted and found proved

ee. you took Patient D's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient D refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 4(a)(i)- (v) and despite the information at paragraph 4(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient D to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 4(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient D pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient E

5. You inappropriately issued the online ~~prescriptions~~ prescription at Schedule One (~~'the prescriptions'~~ 'the prescription') to Patient E, in that:
Amended under Rule 17(6)

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient E;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient E;
Admitted and found proved

dd. you took Patient E's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient E;
Admitted and found proved

cc. you failed to examine Patient E;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient E;
Admitted and found proved

ee. you took Patient E's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 5(a)(i)- (v) when the medication prescribed had habit forming potential.
Amended under Rule 17(6)

Admitted and found proved

c. you issued the ~~prescriptions~~ prescription without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient E to their own GP.
Amended under Rule 17(6)
Admitted and found proved

d. in issuing the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 5(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient E pertaining to dependence upon prescribed drugs.
Amended under Rule 17(6)
Admitted and found proved

Patient F

6. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient F, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient F;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient F;
Admitted and found proved

dd. you took Patient F's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;

Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient F;
Admitted and found proved

cc. you failed to examine Patient F;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient F;
Admitted and found proved

ee. you took Patient F's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the prescriptions in the absence of the information listed at paragraph 6(a)(i)- (v) when the medication prescribed had habit forming potential.
Admitted and found proved

c. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient F to their own GP.
Admitted and found proved

d. in issuing the prescriptions in the absence of the information listed at paragraph 6(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient F pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient G

7. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient G, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient G;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient G;
To be determined

dd. you took Patient G's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient G;
Admitted and found proved

cc. you failed to examine Patient G;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient G;
To be determined

ee. you took Patient G's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
To be determined

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient G refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 7(a)(i)- (v) and despite the information at paragraph 7(b) when the medication prescribed had habit forming potential.
To be determined

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient G to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 7(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient G pertaining to dependence upon prescribed drugs.
To be determined

Patient H

8. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient H, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient H;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient H;

Admitted and found proved

dd. you took Patient H's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient H;
Admitted and found proved

cc. you failed to examine Patient H;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient H;
Admitted and found proved

ee. you took Patient H's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient H refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 8(a)(i)- (v) and despite the information at paragraph 8(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient H to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 8(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient H pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient I

9. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient I, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient I;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient I;
Admitted and found proved

dd. you took Patient I's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient I;
Admitted and found proved

cc. you failed to examine Patient I;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient I;
Admitted and found proved

ee. you took Patient I's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient I refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 9(a)(i)- (v) and despite the information at paragraph 9(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient I to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 9(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient I pertaining to dependence upon prescribed drugs.
Admitted and found proved

<u>Patient J</u>

10. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient J, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient J;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient J;
Admitted and found proved

dd. you took Patient J's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient J;
Admitted and found proved

cc. you failed to examine Patient J;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient J;
Admitted and found proved

ee. you took Patient J's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient J refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 10(a)(i)- (v) and despite the information at paragraph 10(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient J to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 10(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient J pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient K

11. You inappropriately issued the online ~~prescriptions~~ prescription at Schedule One (~~'the prescriptions'~~ 'the prescription') to Patient K, in that:
Amended under Rule 17(6)

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient K;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient K;
To be determined

dd. you took Patient K's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient K;
Admitted and found proved

cc. you failed to examine Patient K;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient K;
To be determined

ee. you took Patient K's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
To be determined

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient K refused to allow you to inform their GP
Admitted and found proved

c. you issued the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 11(a)(i)- (v) and despite the information at paragraph 11(b) when the medication prescribed had habit forming potential.
Amended under Rule 17(6)
To be determined

d. you issued the ~~prescriptions~~ prescription without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient K to their own GP.
Amended under Rule 17(6)
To be determined

e. in issuing the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 11(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient K pertaining to dependence upon prescribed drugs.
Amended under Rule 17(6)
To be determined

Patient L

12. You inappropriately issued the online ~~prescriptions~~ prescription at Schedule One (~~'the prescriptions'~~ 'the prescription') to Patient L, in that:
Amended under Rule 17(6)

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
To be determined

bb. you failed to consult with Patient L;
To be determined

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient L;
To be determined

dd. you took Patient L's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)

To be determined

bb. you failed to consult with Patient L;
To be determined

cc. you failed to examine Patient L;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient L;
To be determined

ee. you took Patient L's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
To be determined

iv. establish a clear diagnosis prior to initiating prescribing;
To be determined

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient L refused to allow you to inform their GP
Admitted and found proved

c. you issued the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 12(a)(i)- (v) and despite the information at paragraph 12(b) when the medication prescribed had habit forming potential.
Amended under Rule 17(6)
To be determined

d. you issued the ~~prescriptions~~ prescription without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient L to their own GP.
Amended under Rule 17(6)
To be determined

e. in issuing the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 12(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient L pertaining to dependence upon prescribed drugs.
Amended under Rule 17(6)

To be determined

Patient M

13. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient M, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient M;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient M;
Admitted and found proved

dd. you took Patient M's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient M;
Admitted and found proved

cc. you failed to examine Patient M;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient M;
Admitted and found proved

ee. you took Patient M's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient M refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 13(a)(i)- (v) and despite the information at paragraph 13(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient M to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 13(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient M pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient N

14. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient N, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient N;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient N;
Admitted and found proved

dd. you took Patient N's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient N;
Admitted and found proved

cc. you failed to examine Patient N;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient N;
Admitted and found proved

ee. you took Patient N's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient N refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 14(a)(i)- (v) and despite the information at paragraph 14(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient N to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 14(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient N pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient O

15. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient O, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient O;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient O;
Admitted and found proved

dd. you took Patient O's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;

Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient O;
Admitted and found proved

cc. you failed to examine Patient O;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient O;
Admitted and found proved

ee. you took Patient O's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient O refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 15(a)(i)- (v) and despite the information at paragraph 15(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient O to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 15(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient O pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient P

16. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient P, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient P;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient P;
Admitted and found proved

dd. you took Patient P's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient P;
Admitted and found proved

cc. you failed to examine Patient P;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient P;
Admitted and found proved

ee. you took Patient P's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the prescriptions in the absence of the information listed at paragraph 16(a)(i)- (v) when the medication prescribed had habit forming potential.
Admitted and found proved

c. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient P to their own GP.
Admitted and found proved

d. in issuing the prescriptions in the absence of the information listed at paragraph 16(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient P pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient Q

17. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient Q, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient Q;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient Q;
Admitted and found proved

dd. you took Patient Q's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient Q;
Admitted and found proved

cc. you failed to examine Patient Q;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient Q;
Admitted and found proved

ee. you took Patient Q's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the prescriptions in the absence of the information listed at paragraph 17(a)(i)- (v) when the medication prescribed had habit forming potential.
Admitted and found proved

c. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient Q to their own GP.
Admitted and found proved

d. in issuing the prescriptions in the absence of the information listed at paragraph 17(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient Q pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient R

18. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient R, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient R;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient R;
Admitted and found proved

dd. you took Patient R's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient R;
Admitted and found proved

cc. you failed to examine Patient R;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient R;
Admitted and found proved

ee. you took Patient R's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the prescriptions in the absence of the information listed at paragraph 18(a)(i)- (v) when the medication prescribed had habit forming potential.
Admitted and found proved

c. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient R to their own GP.
Admitted and found proved

d. in issuing the prescriptions in the absence of the information listed at paragraph 18(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient R pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient S

19. You inappropriately issued the online ~~prescriptions~~ prescription at Schedule One (~~'the prescriptions'~~ 'the prescription') to Patient S, in that:
Amended under Rule 17(6)

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient S;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient S;
Admitted and found proved

dd. you took Patient S's self-report at face value;
To be determined

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient S;
Admitted and found proved

cc. you failed to examine Patient S;
To be determined

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient S;
Admitted and found proved

ee. you took Patient S's self-report at face value.
To be determined

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 19(a)(i)- (v) when the medication prescribed had habit forming potential.
Amended under Rule 17(6)
Admitted and found proved

c. you issued the ~~prescriptions~~ prescription without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient S to their own GP.
Amended under Rule 17(6)
Admitted and found proved

d. in issuing the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 19(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient S pertaining to dependence upon prescribed drugs.
Amended under Rule 17(6)
Admitted and found proved

The Admitted Facts

13. At the outset of these proceedings, through his counsel, Mr Colman, Dr Pooley made admissions to some paragraphs and sub-paragraphs of the Allegation in accordance with Rule 17(2)(d) of the Rules. Once amendments to the Allegation were agreed, a number of further admissions were made. The admissions made are set out above. 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.

The Facts to be Determined

14. In light of Dr Pooley's response to the Allegation made against him, the Tribunal is required to determine the remaining sub-paragraphs, including whether Dr Pooley inappropriately issued online prescriptions in that he failed to obtain an adequate medical history or adequately assess the patient by taking the patients self-report at face value and/or failing to examine the patients.

Factual Witness Evidence

15. Dr Pooley provided his own witness statement dated 17 June 2019 and also gave oral evidence at the hearing.

Expert Witness Evidence

16. The Tribunal received evidence from two expert witnesses, who both gave oral evidence to the Tribunal. Both were instructed to assist the Tribunal in understanding the professional standards to be expected of a GP.

17. The GMC expert witness was Dr U, a GP, GP appraiser and the Clinical Research Director for Spectrum CIC - a national social enterprise providing primary care to vulnerable groups. Dr U provides primary care services in both mainstream general practice and to patients residing in prisons and immigration removal centres. Dr U's first report in respect of Dr Pooley is dated 29 November 2017 and two supplementary reports are dated 6 April 2018 and 25 August 2018.

18. The expert witness on behalf of Dr Pooley was Dr T, a full time GP Principal in a North London Practice. He completed his undergraduate training in Australia and postgraduate GP training in Hertfordshire, UK. Dr T is also a member of the Royal College of General Practitioners. Dr T completed a report dated 13 June 2019 and an undated addendum report. Following his oral evidence, he provided a brief clarification document dated 8 July 2019 in respect of the appropriateness of a prescription of Solpadol, an opioid medication, as a treatment for migraine.

19. The two expert witnesses had a joint discussion on 24 June 2019 in relation to Dr Pooley's case and provided a summary of their opinions. Their discussions centred around the quantities of initial prescribing, taking patient histories at face value and the appropriateness of review.

20. The Tribunal noted that there was very little dispute between the two experts. In general, it found both to be knowledgeable and clear witnesses. Dr U's opinion evidence was preferred to Dr T's evidence because the latter was grounded in normal GP prescribing rather than the online prescribing process in this case.

Documentary Evidence

21. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited to, the referral from the CQC on 25 May 2017; complaint letters from a number of GPs in respect of the medication issued to their patients by Dr Pooley; employer response from NHS England dated 16 August 2017; pharmacy records in respect of Patients A to S; the CQC recommendations for White Pharmacy based on their inspection reports from January 2017, March 2017 and May 2017; and a number of guidance documents, including The National Institute for Health and Care Excellence (NICE) guidelines in respect of sprains and strains, low back pain and neuropathic pain.

The Tribunal's Approach

22. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Pooley does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1

Paragraph 1(a)(i)(dd)

24. The Tribunal considered whether Dr Pooley inappropriately issued the online prescriptions at Schedule One to Patient A, in that he failed to obtain an adequate medical history, in particular that he took Patient A's self-report at face value.

25. The Tribunal had regard to the remote prescribing process at White Pharmacy where the patient would specify the medication, and quantity required, on an online form and fill out a questionnaire. The patient answered a number of set questions in relation to their medical history and details about their current illness. Dr Pooley looked at Patient A's questionnaire, and any associated emails from the patient or other White Pharmacy records, and issued the prescriptions set out at Schedule One. The Tribunal has heard that Dr Pooley did not speak to Patient A by telephone or video link and the system had no provision for this to take place. He also did not have access to Patient A's GP records and, in this instance, Patient A had refused to allow Dr Pooley to inform their GP of the prescriptions he was issuing.

26. This was one area where the experts disagreed in their opinion. In his expert report dated 6 April 2018, Dr U stated that:

> *"The critical issue in this case is that of prescribing medication with an abuse potential without the knowledge of the patient's regular GP… insufficient detail paid to corroborating patients' self reports… Such a lack of corroboration meant that taking a patient's self-reported history at face value significantly increased the risk of addiction to prescribed medication.*
>
> *…*
>
> *Rather prescribing decisions were based simply upon information provided in standard assessment questionnaire templates with no effort made by Dr*

Pooley to consult with the patient and contextualise such information within the wider ideas, concerns or expectations of the patient. Further, Dr Pooley failed to clarify such information or to undertake an examination (either physical or mental state according to the presenting complaint). This meant that by practising in such a system in which a significant amount of clinical information was presented in the form of an online assessment, Dr Pooley's history taking, assessment and diagnostic skills were nevertheless seriously below the standard expected of a reasonably competent GP."

27. In his expert report dated 13 June 2019, Dr T opined:

"It is also quite acceptable, in my opinion, for clinicians to believe patient's self-reported diagnoses. On many occasions patients would present to a GP stating that they have been given a diagnosis, which may be difficult and/or time consuming to properly verify within the context of a regular consultation. There can be therefore no admission made of lowered standards by a clinician believing a patient's self-reported diagnosis such as sciatica or migraine, in my opinion."

28. Although Dr T stated that there are circumstances where it might be appropriate to take a patient's self-report at face value, the Tribunal noted the differences between out of hours and general practice in that there would at least be access to the patient's GP records or the opportunity for face to face consultation. This is in contrast to the model of online prescribing at White Pharmacy where none of those were available to Dr Pooley.

29. The Tribunal preferred the evidence of Dr U in this matter, accepting that, by taking Patient A's self-report at face value, it was inappropriate for Dr Pooley to prescribe to Patient A given a failure to take an adequate medical history. Dr U's criticism relates to the lack of safeguards in place, in that there was no contact with Patient A's GP, the patient was not asked any questions, and there was no potential for a face to face consultation. He clarified that the safeguards were needed given the habit forming potential of opioid medication.

30. There may be occasions, as Dr T stated, where it is appropriate to accept at face value what a patient says. However, in the absence of the opportunity to question the patient or ask follow up questions either by telephone or video link, it is inappropriate to do so. In this case, Dr Pooley did not have access to Patient A's GP records and so there was also no opportunity to verify or corrobate the information provided by Patient A in the online questionnaires.

31. The Tribunal therefore determined that it was not appropriate to take Patient A's self-report at face value in these circumstances and Dr Pooley failed to obtain an adequate medical history such that the prescriptions issued were inappropriate.

32. The Tribunal found this paragraph of the Allegation proved.

Paragraph 1(a)(ii)(cc)

33. The Tribunal considered whether Dr Pooley inappropriately issued the online prescriptions at Schedule One to Patient A, in that he failed to adequately assess the patient, in particular that he failed to examine Patient A.

34. The Tribunal had regard to Dr U's expert report dated 6 April 2018, in relation to the area of remote prescribing to patients:

> *"The key clinical standards which inform such prescribing are that:*
>
> - *Neither myself nor any of the other GPs would initiate an opioid medication (or other analgesic medication with habit forming potential) without first undertaking either a face-face, telephone or video link consultation with the patient*
> - *We would initiate changes to prescribing regimes to patients but only where we have access to the full primary care record and there is not a doctor at the site in which the patient is resident*
> - *Where there is a doctor (or non-medic prescriber - typically a nurse practitioner) at the site in which the patient is resident, our care plans are advisory only. For example we may recommend reductions in analgesic medication to reduce the risk of addiction to prescribed opiates*
> - *Where a patient withholds consent to contact their regular GP, we would not prescribe analgesics with habit forming potential due to a risk of prescription medication abuse."*

35. The Tribunal noted that there is no specific mention to 'examination'. However there is mention of the failure to clarify information or undertaking an examination (either physical or mental) is part of the criticism expressed by Dr U. He stated that an examination would allow the doctor to look at function and examine the relevant area of the body.

36. In cross-examination, Dr U was asked about why he did not mention the need for a physical examination in this situation. Dr U told the Tribunal that the need for a physical examination depended on the individual circumstances of each case but that the absence of the opportunity to examine, should it be required, was a failing in this case. Dr U provided an example of a video link consultation that he had undertaken where he had arranged an examination of the patient to take place a few days later as it was required but not urgent and could be done when another doctor was physically able to see the patient. The failure was because of the lack of potential for a face to face consultation.

37. The Tribunal noted that Dr U has indicated that a doctor does not always need to do an examination. In his oral testimony, Dr U indicated in respect of some of the patients a physical examination would be required prior to prescribing opioid medications.

38. The Tribunal had regard to the admissions made by Dr Pooley in which he accepted that he did not adequately assess Patient A in that his prescribing decisions were primarily based on the information provided in the standard assessment questionnaires. Additionally, he admitted that he failed to consult with Patient A and failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient A.

39. The Tribunal noted that an examination of a patient is not a necessity in every case when prescribing to a patient remotely. For example, there is an acceptance that a doctor can carry out a telephone consultation where there is no ability to undertake an examination. Dr U's evidence does not go as far as to say there is a necessity to have an examination in all cases. There appears to be agreement between the experts that, in certain circumstances, a consultation could be completed without an examination and that a prescription of a small amount of opiates could be given.

40. The Tribunal determined, on the balance of probabilities, that there was no express necessity in Patient A's case to undertake an examination. The Tribunal did find three instances, in respect of Patients G, K and P where it determined that an examination was required to ensure the prescribing was appropriate, as detailed in the relevant section below.

41. The Tribunal found this paragraph of the Allegation not proved.

<u>Paragraph 1(a)(ii)(ee)</u>

42. The Tribunal considered whether Dr Pooley inappropriately issued the online prescriptions at Schedule One to Patient A, in that he failed to adequately assess the patient, in particular that he took Patient A's self-report at face value.

43. The Tribunal has found that Dr Pooley inappropriately issued the prescriptions given the failure to obtain an adequate medical history by taking Patient A's self-report at face value. The patient would ask for a specific medication, and select the quantity, and provide information in an online questionnaire about their illness. Dr Pooley prescribed that medication but without speaking with the patient and without access to the patient's GP records.

44. The Tribunal had regard to Dr U's evidence that there has to be the opportunity for a face to face consultation in order to corroborate and verify what

the patient has said. The Tribunal had regard to Dr U's expert report dated 6 April 2018:

> *"In the absence of adequate and appropriate assessments Dr Pooley took patients' self-reports at face value and therefore I can only conclude that his diagnostic skills fell seriously below the standard expected of a reasonably competent GP since diagnoses were made in the absence of a full assessment."*

45. The Tribunal determined that there had to be an assessment when prescribing the medication to Patient A. It found no evidence that an adequate assessment had taken place, in that Dr Pooley took Patient A's self-report at face value. Without an assessment there was no opportunity for Dr Pooley to obtain further information or to ask follow up questions. In the absence of appropriate safeguards, it was inappropriate to take the patient's self-complaint at face value in assessing the patient to determine what medication may be required.

46. The Tribunal found this paragraph of the Allegation proved.

Paragraph 2

Paragraph 2(a)(i)(dd)

47. The Tribunal found paragraph 2(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 2(a)(ii)(cc)

48. The Tribunal found paragraph 2(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 2(a)(ii)(ee)

49. The Tribunal found paragraph 2(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 3

Paragraph 3(a)(i)(dd)

50. The Tribunal found paragraph 3(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 3(a)(ii)(cc)

51. The Tribunal found paragraph 3(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 3(a)(ii)(ee)

52. The Tribunal found paragraph 3(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 4

Paragraph 4(a)(i)(dd)

53. The Tribunal found paragraph 4(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 4(a)(ii)(cc)

54. The Tribunal found paragraph 4(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 4(a)(ii)(ee)

55. The Tribunal found paragraph 4(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 5

Paragraph 5(a)(i)(dd)

56. The Tribunal found paragraph 5(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 5(a)(ii)(cc)

57. The Tribunal found paragraph 5(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 5(a)(ii)(ee)

58. The Tribunal found paragraph 5(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 6

Paragraph 6(a)(i)(dd)

59. The Tribunal found paragraph 6(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 6(a)(ii)(cc)

60. The Tribunal found paragraph 6(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 6(a)(ii)(ee)

61. The Tribunal found paragraph 6(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 7

Paragraph 7(a)(i)(cc)

62. The Tribunal considered whether Dr Pooley inappropriately issued the online prescriptions at Schedule One to Patient G, in that he failed to obtain an adequate medical history, in particular that he failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient G.

63. The Tribunal noted that Patient G had stated in the online questionnaire that he had a specific diagnosis of 'severe medical *[sic]* compartment osteoarthritis of the right knee'. This diagnosis was subsequently corroborated by an orthopaedic outpatient clinical letter dated 25 October 2016, which was not provided to White Pharmacy until 28 February 2017. The first prescription of Dihydrocodeine issued by Dr Pooley took place on 11 November 2016.

64. The Tribunal had regard to Dr T's addendum report to his original report of 13 June 2019. Dr T stated:

> *"… in cases such as these, once it is concluded that the patient is in marked pain and there is little else that could be offered to help the patient, save for high dose repeat painkillers then, in my opinion, many competent GP's would give prescriptions of for example 100 times 30 mg Codeine or 30 mg Dihydrocodeine as a "last resort" to keep a patient functioning. This would usually be done in conjunction with an opinion by a Pain Clinic and would also take into account the presence of psychological factors which may be amplifying the pain, and would therefore need addressing. As such, in this case, a prescription of 200 tablets is very large, and should not have been issued to this patient initially, it may be that in time, high dose opioids such as this may be required in such a rare case, and this would not a sign of a*

lack of competence in my opinion, as long as appropriate safeguards were put in place."

65. The Tribunal took account of Dr U's expert report dated 6 April 2018:

"However in regard to prescribing of dihydrocodeine, I could find no evidence that Dr Pooley undertook a full history, assessment, or established a clear diagnosis prior to initiating such prescribing. I was also unable to find any evidence of a care plan, and therefore I conclude that in light of such failings, Dr Pooley's practice fell seriously below the standard expected of a reasonably competent GP."

66. The prescriptions were issued based on the limited information in the questionnaire completed by Patient G. There was no ability for Dr Pooley to check Patient G's GP notes or to have a face to face consultation. Whilst the diagnosis provided by Patient G to Dr Pooley was correct, as confirmed by the clinic letter, there was no way that Dr Pooley could have checked or verified this when he first prescribed the medication set out in Schedule One.

67. The Tribunal considered whether Patient G using specific medical terminology and providing further details of their problems, alleviated the lack of safeguarding and the lack of a face to face consultation. It determined that it did not. The Tribunal was mindful that Dr Pooley was unable to check if Patient G was already obtaining medication for this issue from his own GP or if there was any history or concerns in relation to addiction to prescription medication. The absence of safeguards was not mitigated by Patient G providing a more specific medical diagnosis. The Tribunal concluded that Dr Pooley could not have contextualised the information provided within the wider ideas, concerns and expectations of Patient G given the lack of full history, assessment or establishment of a clear diagnosis prior to prescribing the opioid medication. The *"appropriate safeguards"* referred to by Dr T were not present in this case.

68. The Tribunal found this paragraph of the Allegation proved.

<u>Paragraph 7(a)(i)(dd)</u>

69. The Tribunal found paragraph 7(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

<u>Paragraph 7(a)(ii)(cc)</u>

70. In respect of paragraph 7(a)(ii)(cc) of the Allegation, the Tribunal had regard to its decision in relation to paragraph 1(a)(ii)(cc). It took account of the specific ailments reported by Patient G, namely an issue with his knee, and Dr U's evidence that an examination of the condition should be carried out in assessing whether an

opioid should be prescribed. The Tribunal was of the view that this condition was an exception to the decision it had made previously in relation to examination of the patient. The prescribing in this instance was not appropriate as Dr Pooley failed to adequately assess the patient by examining him. Given the knee injury, Dr Pooley should have undertaken an examination *inter alia* to look at Patient G's gait before prescribing the medication, or declining to prescribe. The Tribunal found this paragraph of the Allegation proved.

Paragraph 7(a)(ii)(dd)

71. The Tribunal considered whether Dr Pooley inappropriately issued the online prescriptions at Schedule One to Patient G, in that he failed to adequately assess the patient, in particular that he failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient G.

72. The Tribunal found this paragraph of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(a)(i)(cc). Dr Pooley did not have all of the information and it was therefore not possible for him to have adequately assessed the patient. The Tribunal concluded that Dr Pooley should have not prescribed the medication as set out in Schedule One and should have recognised that it was unsafe to do so in those circumstances.

73. The Tribunal found this paragraph of the Allegation proved.

Paragraph 7(a)(ii)(ee)

74. The Tribunal found paragraph 7(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 7(a)(iv)

75. The Tribunal considered whether Dr Pooley inappropriately issued the online prescriptions at Schedule One to Patient G, in that he failed to establish a clear diagnosis prior to initiating prescribing.

76. The Tribunal noted that Patient G provided a diagnosis of 'severe medical *[sic]* compartment osteoarthritis of the right knee' within the online questionnaire that he completed. Dr Pooley accepted this diagnosis and did not carry out any assessment or verification of this. The Tribunal determined that, on the balance of probabilities, there was only acceptance of the diagnosis provided by Patient G rather than an establishment of a diagnosis by Dr Pooley that should have taken place instead.

77. The Tribunal found this paragraph of the Allegation proved.

Paragraph 7(c)

78. The Tribunal considered whether Dr Pooley inappropriately issued the online prescriptions at Schedule One to Patient G, in that he issued the prescriptions in the absence of the information listed at paragraph 7(a)(i)-(v) and despite the information at paragraph 7(b) when the medication prescribed had habit forming potential.

79. The Tribunal has noted the admissions made by Dr Pooley in relation to paragraph 7(a)(i)-(v) of the Allegation and that it has found the outstanding sections proved. The Tribunal was mindful that both experts accepted that Dihydrocodeine is an opioid medication and has habit forming potential.

80. The Tribunal found this paragraph of the Allegation proved.

Paragraph 7(e)

81. The Tribunal considered whether Dr Pooley inappropriately issued the online prescriptions at Schedule One to Patient G, in issuing the prescriptions in the absence of the information listed at paragraph 7(a)(i)-(v) his prescribing practice undermined any possible support needs of Patient G pertaining to dependence on prescribed drugs.

82. The Tribunal noted that there were no specific support needs in this case but that does not negate the fact that there could have been. Dr Pooley did not know whether or not there were any such support needs. Whilst the diagnosis of osteoarthritis of the right knee was later confirmed, there could still have been a second issue where the patient might have had a dependence on prescribed drugs. The Tribunal was also aware that Dr Pooley did not know what medication was being prescribed to Patient G by his own GP, or any other source of opioid medication, and the prescribing undertaken by Dr Pooley could have seriously undermined the actions that might have been being taken by Patient G's own GP.

83. The Tribunal found this paragraph of the Allegation proved.

Paragraph 8

Paragraph 8(a)(i)(dd)

84. The Tribunal found paragraph 8(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 8(a)(ii)(cc)

85. The Tribunal found paragraph 8(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 8(a)(ii)(ee)

86. The Tribunal found paragraph 8(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 9

Paragraph 9(a)(i)(dd)

87. The Tribunal found paragraph 9(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 9(a)(ii)(cc)

88. The Tribunal found paragraph 9(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 9(a)(ii)(ee)

89. The Tribunal found paragraph 9(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 10

Paragraph 10(a)(i)(dd)

90. The Tribunal found paragraph 10(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 10(a)(ii)(cc)

91. The Tribunal found paragraph 10(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 10(a)(ii)(ee)

92. The Tribunal found paragraph 10(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 11

Paragraph 11(a)(i)(cc)

93. The Tribunal found paragraph 11(a)(i)(cc) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(a)(i)(cc).

Paragraph 11(a)(i)(dd)

94. The Tribunal found paragraph 11(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 11(a)(ii)(cc)

95. In respect of paragraph 11(a)(ii)(cc) of the Allegation, the Tribunal had regard to its decision in relation to paragraph 1(a)(ii)(cc). It took account of the specific ailments reported by Patient K who was suffering from a migraine. The Tribunal accepted the evidence of Dr U that this condition was one where an examination of the patient was required before prescribing an opioid medication. The Tribunal noted the evidence of both experts that opiates would not be the usually indicated treatment for migraine. The prescribing in this instance was therefore not appropriate as Dr Pooley failed to adequately assess the patient by examining him. Dr Pooley should have undertaken an examination to look at Patient K's eyes before reaching a prescribing decision. The Tribunal found this paragraph of the Allegation proved.

Paragraph 11(a)(ii)(dd)

96. The Tribunal found paragraph 11(a)(ii)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(a)(ii)(dd).

Paragraph 11(a)(ii)(ee)

97. The Tribunal found paragraph 11(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 11(a)(iv)

98. The Tribunal found paragraph 11(a)(iv) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(a)(iv).

Paragraph 11(c)

99. The Tribunal found paragraph 11(c) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(c).

Paragraph 11(d)

100. The Tribunal considered whether Dr Pooley inappropriately issued the online prescription at Schedule One to Patient K, in issuing the prescription without adequate and appropriate safeguarding, in particular that he failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient K to their own GP.

101. Patient K completed the online questionnaire and complained of migraine. Dr Pooley prescribed 100 Solpadol 30/500mg tablets to Patient K on 10 May 2017.

102. The Tribunal had regard to Dr U's opinion that Dr Pooley had failed to take an adequate history, undertook no assessment and did not establish a proper diagnosis such that Dr Pooley should not have prescribed the medication. The Tribunal took account of Dr T's opinion that he would have been prepared to issue a prescription, albeit for a smaller number of tablets.

103. The Tribunal preferred Dr U's evidence in this instance. There were no appropriate safeguards in place and so, even on a one-off basis, it was not appropriate to initiate the medication. There was no potential for a face to face consultation with the patient and Dr Pooley did not speak to Patient K or see their GP records. Dr Pooley would have been unable to adequately assess Patient K or take an appropriate medical history within the confines of his work for White Pharmacy. The Tribunal accepted Dr U's view that the prescription was inappropriate and should not have been issued to Patient K. The comments made by Dr Pooley in White Pharmacy patient records were appropriate but the situation was not adequate to obviate the risks involved in prescribing the medication.

104. The Tribunal found this paragraph of the Allegation proved.

Paragraph 11(e)

105. The Tribunal found paragraph 11(e) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(e).

Paragraph 12

Paragraph 12(a)(i)(aa) and Paragraph 12(a)(ii)(aa)

106. The Tribunal considered whether Dr Pooley inappropriately issued the online prescription at Schedule One to Patient L, in that he failed to obtain an adequate medical history or adequately assess the patient, in particular that his prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates.

107. In the absence of appropriate safeguards by way of the opportunity for Dr Pooley to speak face to face with the patient, or to have access to their GP

records, initiating the issuing of any online prescription for opioid medication based on the questionnaires was inappropriate. The Tribunal accepted the evidence of Dr U that primarily relying on the information provided in the questionnaires was inappropriate in the circumstances.

108. The Tribunal found these paragraphs of the Allegation proved.

Paragraph 12(a)(i)(bb) and Paragraph 12(a)(ii)(bb)

109. The Tribunal considered whether Dr Pooley inappropriately issued the online prescription at Schedule One to Patient L, in that he failed to obtain an adequate medical history or adequately assess the patient, in particular that he failed to consult with Patient L.

110. The Tribunal found that Dr Pooley was unable to obtain a complete medical history or adequately assess Patient L without at least the potential for a face to face consultation. There were also no appropriate safeguards in place without the ability to speak with the patient or access their GP records. The Tribunal accepted Dr U's evidence that this was a requirement. The Tribunal determined, on the balance of probabilities, that there was no consultation undertaken on Patient L and, as such, it was inappropriate to issue the prescription.

111. The Tribunal found these paragraphs of the Allegation proved.

Paragraph 12(a)(i)(cc)

112. The Tribunal found paragraph 12(a)(i)(cc) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(a)(i)(cc). The Tribunal was of the view that Dr Pooley would have been unable to contextualise given the limited amount he knew about Patient L's medical history. There was clear ambiguity in relying on the questionnaire rather than speaking with the patient or seeking access to Patient L's GP records.

Paragraph 12(a)(i)(dd)

113. The Tribunal found paragraph 12(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 12(a)(ii)(cc)

114. The Tribunal found paragraph 12(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 12(a)(ii)(dd)

115. The Tribunal found paragraph 12(a)(ii)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(a)(ii)(dd).

Paragraph 12(a)(ii)(ee)

116. The Tribunal found paragraph 12(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 12(a)(iii)

117. The Tribunal considered whether Dr Pooley inappropriately issued the online prescription at Schedule One to Patient L, in that he failed to have an adequate knowledge of the patient's health.

118. The Tribunal has found that Dr Pooley accepted Patient L's self-report at face value. In the absence of further information, the Tribunal determined that Dr Pooley could not have had an adequate knowledge of Patient L's health.

119. The Tribunal found this paragraph of the Allegation proved.

Paragraph 12(a)(iv)

120. The Tribunal found paragraph 12(a)(iv) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(a)(iv).

Paragraph 12(c)

121. The Tribunal found paragraph 12(c) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(c).

Paragraph 12(d)

122. The Tribunal found paragraph 12(d) of the Allegation proved for the same reasons as detailed above in relation to paragraph 11(d).

Paragraph 12(e)

123. The Tribunal found paragraph 12(e) of the Allegation proved for the same reasons as detailed above in relation to paragraph 7(e).

Paragraph 13

Paragraph 13(a)(i)(dd)

124. The Tribunal found paragraph 13(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 13(a)(ii)(cc)

125. The Tribunal found paragraph 13(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 13(a)(ii)(ee)

126. The Tribunal found paragraph 13(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 14

Paragraph 14(a)(i)(dd)

127. The Tribunal found paragraph 14(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 14(a)(ii)(cc)

128. The Tribunal found paragraph 14(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 14(a)(ii)(ee)

129. The Tribunal found paragraph 14(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 15

Paragraph 15(a)(i)(dd)

130. The Tribunal found paragraph 15(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 15(a)(ii)(cc)

131. The Tribunal found paragraph 15(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 15(a)(ii)(ee)

132. The Tribunal found paragraph 15(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 16

Paragraph 16(a)(i)(dd)

133. The Tribunal found paragraph 16(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 16(a)(ii)(cc)

134. In respect of paragraph 16(a)(ii)(cc) of the Allegation, the Tribunal had regard to its decision in relation to paragraph 1(a)(ii)(cc). It took account of the specific ailments reported by Patient P, who was suffering from migraine. The Tribunal accepted the evidence of Dr U that this condition was one where an examination of the patient was required before prescribing an opioid medication. The Tribunal noted the evidence of both experts that opioid medication for a migraine would not be the usually indicated treatment. The prescribing in this instance was therefore not appropriate as Dr Pooley failed to adequately assess the patient by examining him. Dr Pooley should have undertaken an examination to look at Patient P's eyes before reaching a prescribing decision. The Tribunal found this paragraph of the Allegation proved.

Paragraph 16(a)(ii)(ee)

135. The Tribunal found paragraph 16(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 17

Paragraph 17(a)(i)(dd)

136. The Tribunal found paragraph 17(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 17(a)(ii)(cc)

137. The Tribunal found paragraph 17(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 17(a)(ii)(ee)

138. The Tribunal found paragraph 17(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 18

Paragraph 18(a)(i)(dd)

139. The Tribunal found paragraph 18(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 18(a)(ii)(cc)

140. The Tribunal found paragraph 18(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 18(a)(ii)(ee)

141. The Tribunal found paragraph 18(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

Paragraph 19

Paragraph 19(a)(i)(dd)

142. The Tribunal found paragraph 19(a)(i)(dd) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(i)(dd).

Paragraph 19(a)(ii)(cc)

143. The Tribunal found paragraph 19(a)(ii)(cc) of the Allegation not proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(cc).

Paragraph 19(a)(ii)(ee)

144. The Tribunal found paragraph 19(a)(ii)(ee) of the Allegation proved for the same reasons as detailed above in relation to paragraph 1(a)(ii)(ee).

The Tribunal's Overall Determination on the Facts

145. The Tribunal has determined the facts as follows:

Patient A

1. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient A, in that:

    a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient A;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient A;
Admitted and found proved

dd. you took Patient A's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient A;
Admitted and found proved

cc. you failed to examine Patient A;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient A;
Admitted and found proved

ee. you took Patient A's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient A refused to allow you to inform their GP.
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 1(a)(i)- (v) and despite the information at paragraph 1(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient A to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 1(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient A pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient B

2. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient B, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient B;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient B;
Admitted and found proved

dd. you took Patient B's self-report at face value;

Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient B;
Admitted and found proved

cc. you failed to examine Patient B;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient B;
Admitted and found proved

ee. you took Patient B's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient B refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 2(a)(i)- (v) and despite the information at paragraph 2(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient B to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 2(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient B pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient C

3. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient C, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient C;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient C;
Admitted and found proved

dd. you took Patient C's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient C;
Admitted and found proved

cc. you failed to examine Patient C;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient C;
Admitted and found proved

ee. you took Patient C's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient C refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 3(a)(i)- (v) and despite the information at paragraph 3(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient C to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 3(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient C pertaining to dependence upon prescribed drugs.
Admitted and found proved

<u>Patient D</u>

4. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient D, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient D;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient D;
Admitted and found proved

dd. you took Patient D's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient D;
Admitted and found proved

cc. you failed to examine Patient D;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient D;
Admitted and found proved

ee. you took Patient D's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.

Admitted and found proved

b. Patient D refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 4(a)(i)- (v) and despite the information at paragraph 4(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient D to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 4(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient D pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient E

5. You inappropriately issued the online ~~prescriptions~~ prescription at Schedule One (~~'the prescriptions'~~ 'the prescription') to Patient E, in that:
Amended under Rule 17(6)

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient E;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient E;
Admitted and found proved

dd. you took Patient E's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient E;
Admitted and found proved

cc. you failed to examine Patient E;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient E;
Admitted and found proved

ee. you took Patient E's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 5(a)(i)- (v) when the medication prescribed had habit forming potential.
Amended under Rule 17(6)
Admitted and found proved

c. you issued the ~~prescriptions~~ prescription without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient E to their own GP.
Amended under Rule 17(6)
Admitted and found proved

d. in issuing the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 5(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient E pertaining to dependence upon prescribed drugs.
Amended under Rule 17(6)
Admitted and found proved

Patient F

6. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient F, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient F;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient F;
Admitted and found proved

dd. you took Patient F's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient F;
Admitted and found proved

cc. you failed to examine Patient F;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient F;
Admitted and found proved

ee. you took Patient F's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the prescriptions in the absence of the information listed at paragraph 6(a)(i)- (v) when the medication prescribed had habit forming potential.
Admitted and found proved

c. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient F to their own GP.
Admitted and found proved

d. in issuing the prescriptions in the absence of the information listed at paragraph 6(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient F pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient G

7. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient G, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;

Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient G;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient G;
Determined and found proved

dd. you took Patient G's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient G;
Admitted and found proved

cc. you failed to examine Patient G;
Determined and found proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient G;
Determined and found proved

ee. you took Patient G's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Determined and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient G refused to allow you to inform their GP

Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 7(a)(i)- (v) and despite the information at paragraph 7(b) when the medication prescribed had habit forming potential.
Determined and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient G to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 7(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient G pertaining to dependence upon prescribed drugs.
Determined and found proved

Patient H

8. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient H, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient H;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient H;
Admitted and found proved

dd. you took Patient H's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient H;
Admitted and found proved

cc. you failed to examine Patient H;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient H;
Admitted and found proved

ee. you took Patient H's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient H refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 8(a)(i)- (v) and despite the information at paragraph 8(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient H to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 8(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient H pertaining to dependence upon prescribed drugs.

Admitted and found proved

Patient I

9. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient I, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient I;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient I;
Admitted and found proved

dd. you took Patient I's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient I;
Admitted and found proved

cc. you failed to examine Patient I;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient I;
Admitted and found proved

ee. you took Patient I's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient I refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 9(a)(i)- (v) and despite the information at paragraph 9(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient I to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 9(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient I pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient J

10. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient J, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient J;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient J;
Admitted and found proved

dd. you took Patient J's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient J;
Admitted and found proved

cc. you failed to examine Patient J;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient J;
Admitted and found proved

ee. you took Patient J's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient J refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 10(a)(i)- (v) and despite the information at paragraph 10(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient J to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 10(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient J pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient K

11. You inappropriately issued the online ~~prescriptions~~ prescription at Schedule One (~~'the prescriptions'~~ 'the prescription') to Patient K, in that:
Amended under Rule 17(6)

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient K;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient K;
Determined and found proved

dd. you took Patient K's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient K;
Admitted and found proved

cc. you failed to examine Patient K;
Determined and found proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient K;
Determined and found proved

ee. you took Patient K's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Determined and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient K refused to allow you to inform their GP
Admitted and found proved

c. you issued the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 11(a)(i)- (v) and despite the information at paragraph 11(b) when the medication prescribed had habit forming potential.
Amended under Rule 17(6)
Determined and found proved

d. you issued the ~~prescriptions~~ prescription without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient K to their own GP.
Amended under Rule 17(6)
Determined and found proved

e. in issuing the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 11(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient K pertaining to dependence upon prescribed drugs.
Amended under Rule 17(6)
Determined and found proved

Patient L

12. You inappropriately issued the online ~~prescriptions~~ prescription at Schedule One (~~'the prescriptions'~~ 'the prescription') to Patient L, in that:
Amended under Rule 17(6)

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Determined and found proved

bb. you failed to consult with Patient L;
Determined and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient L;
Determined and found proved

dd. you took Patient L's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Determined and found proved

bb. you failed to consult with Patient L;
Determined and found proved

cc. you failed to examine Patient L;

Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient L;
Determined and found proved

ee. you took Patient L's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Determined and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Determined and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient L refused to allow you to inform their GP
Admitted and found proved

c. you issued the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 12(a)(i)- (v) and despite the information at paragraph 12(b) when the medication prescribed had habit forming potential.
Amended under Rule 17(6)
Determined and found proved

d. you issued the ~~prescriptions~~ prescription without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient L to their own GP.
Amended under Rule 17(6)
Determined and found proved

e. in issuing the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 12(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient L pertaining to dependence upon prescribed drugs.
Amended under Rule 17(6)
Determined and found proved

Patient M

13. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient M, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient M;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient M;
Admitted and found proved

dd. you took Patient M's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient M;
Admitted and found proved

cc. you failed to examine Patient M;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient M;
Admitted and found proved

ee. you took Patient M's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient M refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 13(a)(i)- (v) and despite the information at paragraph 13(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient M to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 13(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient M pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient N

14. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient N, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient N;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient N;

Admitted and found proved

dd. you took Patient N's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient N;
Admitted and found proved

cc. you failed to examine Patient N;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient N;
Admitted and found proved

ee. you took Patient N's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient N refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 14(a)(i)- (v) and despite the information at paragraph 14(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient N to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 14(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient N pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient O

15. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient O, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient O;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient O;
Admitted and found proved

dd. you took Patient O's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient O;
Admitted and found proved

cc. you failed to examine Patient O;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient O;
Admitted and found proved

ee. you took Patient O's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. Patient O refused to allow you to inform their GP
Admitted and found proved

c. you issued the prescriptions in the absence of the information listed at paragraph 15(a)(i)- (v) and despite the information at paragraph 15(b) when the medication prescribed had habit forming potential.
Admitted and found proved

d. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient O to their own GP.
Admitted and found proved

e. in issuing the prescriptions in the absence of the information listed at paragraph 15(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient O pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient P

16. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient P, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient P;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient P;
Admitted and found proved

dd. you took Patient P's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient P;
Admitted and found proved

cc. you failed to examine Patient P;
Determined and found proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient P;
Admitted and found proved

ee. you took Patient P's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the prescriptions in the absence of the information listed at paragraph 16(a)(i)- (v) when the medication prescribed had habit forming potential.
Admitted and found proved

c. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient P to their own GP.
Admitted and found proved

d. in issuing the prescriptions in the absence of the information listed at paragraph 16(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient P pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient Q

17. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient Q, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient Q;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient Q;
Admitted and found proved

dd. you took Patient Q's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient Q;
Admitted and found proved

cc. you failed to examine Patient Q;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient Q;
Admitted and found proved

ee. you took Patient Q's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the prescriptions in the absence of the information listed at paragraph 17(a)(i)- (v) when the medication prescribed had habit forming potential.
Admitted and found proved

c. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient Q to their own GP.
Admitted and found proved

d. in issuing the prescriptions in the absence of the information listed at paragraph 17(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient Q pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient R

18. You inappropriately issued the online prescriptions at Schedule One ('the prescriptions') to Patient R, in that:

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient R;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient R;
Admitted and found proved

dd. you took Patient R's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient R;
Admitted and found proved

cc. you failed to examine Patient R;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient R;
Admitted and found proved

ee. you took Patient R's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the prescriptions in the absence of the information listed at paragraph 18(a)(i)- (v) when the medication prescribed had habit forming potential.
Admitted and found proved

c. you issued the prescriptions without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient R to their own GP.
Admitted and found proved

d. in issuing the prescriptions in the absence of the information listed at paragraph 18(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient R pertaining to dependence upon prescribed drugs.
Admitted and found proved

Patient S

19. You inappropriately issued the online ~~prescriptions~~ prescription at Schedule One (~~'the prescriptions'~~ 'the prescription') to Patient S, in that:
Amended under Rule 17(6)

a. you failed to:

i. obtain an adequate medical history, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient S;
Admitted and found proved

cc. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient S;
Admitted and found proved

dd. you took Patient S's self-report at face value;
Determined and found proved

ii. adequately assess the patient, in that:

aa. your prescribing decisions were primarily based on the information provided in standard assessment questionnaire templates;
Amended under Rule 17(6)
Admitted and found proved

bb. you failed to consult with Patient S;
Admitted and found proved

cc. you failed to examine Patient S;
Not proved

dd. you failed to contextualise the information provided within the wider ideas, concerns and expectations of Patient S;
Admitted and found proved

ee. you took Patient S's self-report at face value.
Determined and found proved

iii. have an adequate knowledge of the patient's health;
Admitted and found proved

iv. establish a clear diagnosis prior to initiating prescribing;
Admitted and found proved

v. formulate an adequate and appropriate treatment plan prior to initiating prescribing.
Admitted and found proved

b. you issued the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 19(a)(i)- (v) when the medication prescribed had habit forming potential.
Amended under Rule 17(6)
Admitted and found proved

c. you issued the ~~prescriptions~~ prescription without adequate and appropriate safeguarding, in that you failed to decline to prescribe medication that had a risk of causing dependency and redirect Patient S to their own GP.
Amended under Rule 17(6)
Admitted and found proved

d. in issuing the ~~prescriptions~~ prescription in the absence of the information listed at paragraph 19(a)(i)- (v) your prescribing practice undermined any possible support needs of Patient S pertaining to dependence upon prescribed drugs.
Amended under Rule 17(6)
Admitted and found proved

Determination on Impairment - 16/07/2019

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

The Evidence

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

- A further reflective statement from Dr Pooley;
- A number of testimonials from colleagues and employers, all of which it has read;
- Dr Pooley's Continuing Professional Development (CPD) record;
- Dr Pooley's In-House Appraisal from Park Medical Practice dated 28 February 2019;
- A copy of the CQC report dated 27 March 2017 in respect of Somercotes Medical Centre, where Dr Pooley worked from 2011 to August 2018.

3. Within the reflective statement, Dr Pooley stated that he had tried to embrace the GMC investigation and learn from it in order to further improve his practice and share the lessons he has learned with others. In reviewing and reflecting on his work as an online prescriber, Dr Pooley stated that he was embarrassed and ashamed to admit that he failed to ensure that his prescribing was safe and appropriate for all patients. Dr Pooley stated that he deeply regretted that his actions whilst working at White Pharmacy were inappropriate and did not meet the standards required. Dr Pooley offered a full and unreserved apology for his actions as an online prescriber to his patients and the health professionals who care for them.

GMC Submissions

4. Mr Sastry submitted that Dr Pooley's fitness to practise is currently impaired. He stated that Dr Pooley had been prescribing harmful drugs to patients without knowledge of those patients' health. Mr Sastry submitted that Dr Pooley had breached basic principles of medicine and the misconduct was serious.

5. Mr Sastry referred the Tribunal to paragraph 16(a) of the current edition of Good Medical Practice (2013) ('GMP'):

> *"In providing clinical care you must:*
>
> > *a. prescribe drugs or treatment, including repeat prescriptions, only when you have adequate knowledge of the patient's health and are satisfied that the drugs or treatment serve the patient's needs…"*

He referred to the mandatory language within this paragraph of the guidance, *"you must"*, and submitted that this was used for an overriding duty or principle. Mr Sastry also referred to the guidance regarding remote prescribing. He submitted that the guidance was in place to ensure patient safety and that it had not been followed by Dr Pooley.

6. Mr Sastry referred to Dr Pooley's treatment of Patient P, where a complaint letter had been received by the GMC from Patient P's GP. Mr Sastry stated that Dr Pooley had prescribed dihydrocodeine, an opioid medication with the potential for the patient to suffer respiratory problems that could possibly result in death. Patient P had a history of depression and the GP complaint letter stated that Patient P had had an addiction to prescription medication. Mr Sastry stated that Patient P had said she had migraines on the online questionnaire. The Tribunal has heard that opiates should not have been prescribed for migraine in this instance. Mr Sastry stated that Patient P's GP was not informed until over 20 prescriptions had been issued to Patient P by Dr Pooley and others. Whilst it may be that no serious harm was caused, there was the chance of serious harm given the absence of proper safeguarding. Mr Sastry submitted that the opioid medication was issued by Dr Pooley in circumstances where there was no consent to inform the patient's GP.

7. Mr Sastry referred to Dr U's evidence that Dr Pooley's actions fell seriously below the expected standard of a reasonably competent GP. He submitted that each medication prescribed to each of the patients could have been prescribed to a patient with an opiate addiction. Mr Sastry stated that this was why he submitted that the conduct was serious and might have caused serious harm.

8. Mr Sastry also referred the Tribunal to paragraph 15(a) of GMP:

> *"You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:*

> *a. adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient…"*

He stated that he placed emphasis on the need to *"adequately assess"*, which also featured in the Allegation that Dr Pooley faces. Mr Sastry submitted that Dr Pooley has breached this principle of GMP.

9. Mr Sastry referred to the evidence heard that there is a widespread issue regarding addiction to prescription medication. He referred to Dr U's evidence that, even if Dr Pooley had not been aware of the full scale of the problem, a doctor would have a basic, degree level knowledge of the dangers of opiate medication/controlled drugs. Mr Sastry asked the Tribunal to bear this in mind.

10. Mr Sastry referred to the comments of Mrs Justice Cox in the case of *CHRE v NMC and Grant* [2011] EWHC 927, including that it was essential not to lose sight of the fundamental consideration, namely the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession. Mr Sastry stated that Dr Pooley has reflected and acknowledged that his prescribing practice has fallen seriously below the expected standard.

11. Mr Sastry submitted that a finding of impairment was needed to maintain public confidence in the profession and uphold proper professional standards.

12. Mr Sastry stated that Dr Pooley issued a large number of opioid medications online over nearly a two year period. He submitted that Dr Pooley put a large number of patients at risk of harm. Mr Sastry acknowledged that there had been no previous concerns prior to these matters. He stated that Dr Pooley clearly had some insight into his failings. Mr Sastry submitted that the duration of Dr Pooley's prescribing within a system that had such clear faults and lack of safeguards was concerning. He also referred to the positive testimonials received on Dr Pooley's behalf and stated that it was clear that Dr Pooley had clearly thought about his misconduct.

13. Mr Sastry submitted that Dr Pooley does not have full insight: Dr Pooley did not accept that his actions were inappropriate in relation to the facts determined by the Tribunal, i.e. taking patients at self-reports at face value. Mr Sastry submitted that, even three years on from his time at White Pharmacy, Dr Pooley still does not full understand why it was inappropriate to prescribe in the way that he did. Mr Sastry submitted that the risk of repetition could not be ruled out.

14. Mr Sastry told the Tribunal that the issue of online prescribing will have an increasing role to doctors and patients in the future. He submitted that Dr Pooley

still has progress to make in terms of understanding the full extent of his misconduct; therefore his fitness to practise is currently impaired.

Submissions on Dr Pooley's behalf

15. Mr Colman submitted that Dr Pooley has expressed his ready acceptance of falling seriously below the standards required in prescribing for the patients in this case. He stated that Dr Pooley has attempted to provide some context to explain how he came to prescribe in the way that he did and he has expressed his genuine remorse for having done so. Mr Colman submitted that Dr Pooley has also explained how he has learned from the events in question and taken steps to try to ensure that there will be no repetition, not only by himself but also through sharing his experience and learning and devising alternative treatment pathways for patients. Mr Colman commented that Dr U commended the remedial action that Dr Pooley has undertaken.

16. Mr Colman submitted that Dr Pooley has displayed a large measure of insight. He stated that this insight was not undermined by the fact that Dr Pooley contested a small number of the many sub-allegations brought against him. Mr Colman submitted that these were disputed based on the expert evidence of Dr T and that this should not be held against Dr Pooley.

17. Mr Colman confirmed that Dr Pooley does not contest that his failings amount to misconduct or that his fitness to practise is currently impaired. He referred to his submissions in relation to the misguided errors made by Dr Pooley in the context of the evolving world of online medicine that he described at the facts stage. Mr Colman submitted that Dr Pooley has accepted and regrets that his mistakes, which placed patients at risk of developing or exacerbating opioid dependency, are sufficiently serious to be properly categorised as misconduct.

18. Mr Colman referred the Tribunal to the principles in the case of *Grant*, including paragraph 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."*

19. Mr Colman submitted that Dr Pooley no longer undertakes any online prescribing and, in that sense, there is no continuing risk to the public. He has learned of the risks of online prescribing without the appropriate safeguards.

20. Despite this, Mr Colman submitted that Dr Pooley recognised that it was necessary to send out a wider message to the profession and the public about the unacceptability of the way in which the prescribing was conducted in this case, so that others will not repeat the mistakes. Mr Colman submitted that, although Dr Pooley presents no current risk to members of the public, the Tribunal may think that a finding of impairment in the public interest, in order to uphold proper professional standards and maintain public confidence in the profession, is necessary in this case.

The Relevant Legal Principles

21. 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.

22. 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 that was serious; and then whether the finding of that misconduct could lead to a finding of impairment.

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

24. The Legal Assessor referred the Tribunal to the case of *Martin v GMC* [2011] EWHC 3204 (Admin) that misconduct requires bad faith/moral turpitude or gross incompetence/gross negligence and does not always amount to impairment.

25. The Tribunal was also reminded of the approach referred to in the case of *Grant*:

> *"Do our findings of fact in respect of the doctor's misconduct… show that his/her fitness to practise is impaired in the sense that s/he:*
>
> > *a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
> >
> > *b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
> >
> > *c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
> >
> > *d. [not relevant to this case]"*

The Tribunal's Determination on Impairment

Tribunal's comments regarding White Pharmacy

26. The Tribunal observed that both expert witnesses agree White Pharmacy's operating model was inappropriate in itself and did not allow the opportunity for face to face consultations. Patients placed orders for medication they wanted from the website and filled in an online questionnaire with details of their medical history. Doctors who worked for White Pharmacy then considered the questionnaires and prescribed medication.

27. The Tribunal accepted Dr U's opinion that it was inappropriate to prescribe in the way that White Pharmacy operated given the doctor did not have sufficient reliable information to enable them to prescribe safely. The doctors working at White Pharmacy did not have access to the patients' GP records and some patients did not provide consent for the prescribing information to be sent to their GPs. However, the Tribunal was clear that the lack of safeguards in the system did not negate the responsibility on a doctor to work within the guidance set out by the GMC as to the requirements for safe remote prescribing.

Misconduct

28. The Tribunal first considered whether Dr Pooley's actions amount to misconduct.

29. The Tribunal has found proved that Dr Pooley inappropriately issued a number of online prescriptions of opioid medication to Patients A to S when this medication had habit forming potential. Dr Pooley did not decline to prescribe the medication and redirect the patients to their GP despite the risk of the medication causing dependency and the fact that it might have undermined any support needs that the patients could have required. The Tribunal had regard to the complaint letters that had been received from GPs, who expressed concerns about how Dr Pooley had prescribed to their patient.

30. The Tribunal was mindful of Dr U's evidence in which he opined Dr Pooley's actions were seriously below the expected standard of a reasonably competent GP. It noted that Dr Pooley has also accepted that his actions were seriously below those standards.

31. The Tribunal had regard to the guidance, including paragraph 16(a) of GMP as quoted above. It was of the view that the guidance was clear that it was imperative for a doctor to have adequate knowledge of a patient's health before prescribing drugs to them. The Tribunal was also conscious of the GMC guidance entitled 'Good practice in prescribing medicines and devices' (2013), including paragraphs 60 and 61:

> *"60. Before you prescribe for a patient via telephone, video-link or online, you must satisfy yourself that you can make an adequate assessment, establish a dialogue and obtain the patient's consent…*
>
> *61. You may prescribe only when you have adequate knowledge of the patient's health, and are satisfied that the medicines serve the patient's needs. You must consider:*
>
> *a. the limitations of the medium through which you are communicating with the patient*
> *b. the need for physical examination or other assessment*
> *c. whether you have access to the patient's medical records."*

32. The Tribunal was of the view that it was a fundamental principle that a doctor would need to have the relevant information available to him or her in order to allow them to make a safe and appropriate decision. The Tribunal concluded that Dr Pooley did not have the relevant information when he was working at White Pharmacy and The Online Clinic. It was concerned that there was a clear risk in prescribing opioid medication in such a situation.

33. The Tribunal determined that it should have been obvious to Dr Pooley at the very start of his online prescribing that he did not have sufficient verifiable information available to him. He was a trained GP and was aware of the requirements as set out in the guidance. The Tribunal determined that Dr Pooley had applied a different standard of prescribing in his online work to that which he would have applied to a face to face consultation with a patient given there had been no previous concerns about his practice. The Tribunal was of the view that Dr Pooley's actions were reckless.

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

Impairment by reason of misconduct

35. Having found that the facts found proved amounted to misconduct, the Tribunal went on to consider whether Dr Pooley's fitness to practise is currently impaired by reason of his misconduct.

36. The Tribunal had regard to the extensive CPD and remediation completed by Dr Pooley. It was of the view that the learning diary indicated that Dr Pooley has focused on the specific areas of deficiency and has made progress. The Tribunal had regard to Dr U's evidence in which he stated that Dr Pooley has remediated his deficiencies. The Tribunal agreed with Dr U's opinion.

37. The Tribunal noted that Dr Pooley made a number of early admissions to a large majority of the Allegation. When giving evidence the Tribunal found Dr Pooley to be remorseful, expressing regret and insight into his misconduct. Dr Pooley has accepted that his actions were not safe and put patients at risk of harm. The Tribunal was of the view that Dr Pooley has developed adequate insight into his actions. Whilst that insight might not be complete, it is sufficient such that the risk of repetition is minimal. The Tribunal concluded that it was highly unlikely that Dr Pooley would breach GMC requirements and principles in the future.

38. The Tribunal had regard to what a reasonably informed member of the public would think of this case. It considered that such individuals would be appalled by the online prescribing undertaken by Dr Pooley. The Tribunal was concerned that remote prescribing without safeguards was a route for patients with potential addiction to obtain large amounts of opioid medication. The Tribunal was conscious of the risks surrounding controlled drugs.

39. The Tribunal was of the view that Dr Pooley has personally remediated his misconduct. The public interest, however, requires a finding of impairment to be made in this case. The Tribunal determined that Dr Pooley's fitness to practise is impaired by reason of misconduct. It was of the view that there was impairment by reason of the need to maintain public confidence in the profession and to maintain proper professional standards and conduct for members of the profession. The breach of the fundamental principles set out in the guidance was severe and Dr Pooley's actions fell seriously below the expected standard on a number of occasions. The Tribunal found there to be a clear public interest in a finding of impairment in these circumstances given the risk to patients and in order to safeguard the reputation of the profession.

Determination on Sanction - 18/07/2019

1. Having determined that Dr Pooley's 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 evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

3. The Tribunal received further evidence on behalf of Dr Pooley in the form of the interim order conditions that were in place on his practice.

GMC Submissions

4. Mr Sastry submitted that the appropriate sanction would be suspension in this case. He referred to a number of paragraphs within the Sanctions Guidance (6 February 2018) ('the SG'), including paragraph 19:

> *"Good medical practice is the benchmark that doctors are expected to meet subject to any mitigating or aggravating factors. Action is taken where a serious or persistent breach of the guidance has put patient safety at risk or undermined public confidence in doctors."*

Mr Sastry submitted that there had been a serious and a persistent breach of the guidance and that patients were put at risk. He stated that Dr Pooley has potentially undermined the trust that the public place in doctors. Mr Sastry acknowledged that there were a number of mitigating factors, including the level of insight and remediation that the Tribunal has found. He noted that the testimonials show that Dr Pooley is well-regarded as a doctor. Mr Sastry stated that a number of the aggravating factors suggested in the SG did not apply.

5. Mr Sastry submitted that Dr Pooley's case was far too serious for the Tribunal to take no action. He stated that there were no exceptional circumstances and that it was appropriate for the Tribunal to move to the next least restrictive sanction.

6. Mr Sastry submitted that conditions would not adequately reflect the seriousness of Dr Pooley's misconduct. He referred to the duration and persistence of Dr Pooley's actions and the risks to patients that the Tribunal has identified. Mr Sastry noted that Dr Pooley has already personally remediated but reminded the Tribunal of its findings that Dr Pooley's actions were reckless and that it should have been obvious to him that he should not have started prescribing opiates without the necessary safeguards. Mr Sastry submitted that conditions would be inadequate to address the concerns or to maintain public confidence in the profession.

7. Mr Sastry referred the Tribunal to paragraph 92 of the SG:

> *"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…"*

He reminded the Tribunal of its findings that Dr Pooley's actions were serious and that it was a fundamental principle that a doctor has to have the relevant information before them in order to make safe and appropriate prescribing decisions. Mr Sastry suggested that the Tribunal's comments in its determination on impairment would indicate that suspension is the correct sanction in terms of the need to safeguard the reputation of the profession.

8. Mr Sastry also referred the Tribunal to paragraph 93 of the SG:

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

He stated that Dr Pooley has acknowledged his faults. Mr Sastry also referred to the Tribunal's comments in relation to impairment, that the risk of repetition is minimal in this case given the insight shown and remediation undertaken by Dr Pooley.

9. With reference to paragraph 97 of the SG, Mr Sastry identified a number of facts which might indicate that suspension may be appropriate. He submitted that there had been a serious breach of GMP, in circumstances where Dr Pooley's conduct was not fundamentally incompatible with his continued registration. Mr Sastry submitted that there was no evidence to demonstrate that remediation was unlikely to be successful or that there had been any repetition of similar behaviour in the period since 2017. He referred to the Tribunal's findings that Dr Pooley had shown insight and there was no significant risk of repeating the behaviour.

10. Mr Sastry stated that there were a number of factors for the Tribunal to consider when determining the duration of any suspension. He submitted that it should consider the seriousness of the findings, including the extent to which Dr Pooley departed from the principles of GMP and the extent to which his actions risked patient safety or public confidence. Mr Sastry submitted that Dr Pooley continued to issue opioid medication for some time and did not take prompt action.

11. Mr Sastry stated that the Tribunal had found that a reasonably informed member of the public would be appalled by the online prescribing that took place. He submitted that this was an example of why suspension was required, in order to maintain public confidence and uphold proper professional standards.

Submissions on Dr Pooley's behalf

12. Mr Colman stated that Dr Pooley is a GP who is capable of performing to the highest standards. He submitted that Dr Pooley is clearly a valuable asset to the Heath Service at a time of a national shortage of doctors. Mr Colman identified that the retention and utilisation of Dr Pooley's services to patients were therefore public interest factors that the Tribunal needs to weigh in the balance when considering sanction.

13. Mr Colman acknowledged that on the other side of the balancing exercise is the public interest in declaring and upholding proper professional standards and maintaining public confidence in the profession. He submitted that the proportionate way of balancing those factors would be a sanction of conditional registration.

14. With reference to paragraph 82 of the SG, Mr Colman submitted that Dr Pooley has insight and the Tribunal can be assured that he would comply with any conditions imposed on his registration. He referred to the Tribunal's findings that Dr Pooley has personally remediated his conduct and has kept his skills and knowledge up to date. Mr Colman submitted that Dr Pooley has shown that he has insight by the early admissions made, his acceptance of impairment and his further acceptance that a sanction is required to mark the seriousness of the inappropriate prescribing.

15. Mr Colman suggested that it would be appropriate for Dr Pooley to have conditions including that he must not prescribe, administer, have primary responsibility for any medicine, or medicinal product that contains a medicine listed in the latest edition of the British National Formulary Chapter 4 Part 2 (Epilepsy), or Part 6 (Pain), outside of his NHS practice.

16. Mr Colman submitted that there is no risk to patient safety as Dr Pooley has personally remediated his conduct and repetition is highly unlikely. He stated that the public interest can be upheld by imposing conditions and would not prevent Dr Pooley from providing continuing care to his patients. Mr Colman submitted that an order for conditions was the appropriate and proportionate sanction.

The Relevant Legal Principles

17. The Tribunal was reminded that each case should be decided on its own merits when deciding the appropriate sanction. With reference to the case of *Harry v GMC* [2006] EWHC 3050, an approach whereby the Tribunal or parties seek to impose a similar sanction that was imposed in an apparently similar case is not to be undertaken.

18. The Legal Assessor referred to the decision in *Bolton v Law Society* [1993] EWCA Civ 32, where it has been commented that proportionality includes the principles that the reputation of a profession is more important than the fortunes of an individual member of that profession.

19. The Tribunal is entitled to look beyond the charges that the doctor is facing to take into account the doctor's overall professional history to come to a conclusion, on sanction, which is fair and in the public interest (*Fernando v GMC* [2014] EWHC 1664).

The Tribunal's Determination on Sanction

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

21. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that the purpose of the sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.

22. The Tribunal gave careful consideration to the aggravating and mitigating factors present in Dr Pooley's case.

23. In mitigation the Tribunal had regard to the following factors:

- The Tribunal has seen a number of positive testimonials on behalf of Dr Pooley which emphasise that he is a well-regarded practitioner.
- Dr Pooley has undertaken focused and in depth CPD. He has been able to demonstrate how his learning has developed as a result of his experience and courses undertaken since the complaints arose.
- The Tribunal determined that Dr Pooley has sufficient insight into his actions and misconduct.
- Dr Pooley made early admissions to the majority of the Allegation.
- The Tribunal noted that Dr Pooley has expressed unconditional remorse and apology, and that this apology was communicated in an appropriate and timely manner.

24. The Tribunal balanced the mitigating factors against what it considered to be the aggravating factors in this case:

- The misconduct in question took place in relation to a large number of patients over a 15 month period. The Tribunal considered that its findings in respect of the misconduct were an aggravating factor given the seriousness of the conduct and the need to satisfy the public interest in the specific circumstances of this case. It reiterated its comments that Dr Pooley should have looked at the system at White Pharmacy and The Online Clinic and realised that he should not have prescribed opioid medication without the appropriate safeguards in place. There is a clear public interest arising from the need to maintain proper professional standards and to uphold the reputation of the profession.

No action

25. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Pooley's case, the Tribunal first considered whether to conclude the case by taking no action.

26. The Tribunal determined that, in view of the serious nature of its findings at the facts and impairment stages, it would be wholly inappropriate to conclude this case by taking no action. It could find no exceptional circumstances such to justify taking no action.

Conditions

27. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Pooley's registration. It has borne in mind that any conditions imposed must be appropriate, proportionate, workable and measurable.

28. The Tribunal has found that, as an experienced GP, Dr Pooley's misconduct was serious and reckless. It fell seriously below the expected standards on a number of occasions. It balanced this with the positive efforts that Dr Pooley has undertaken in relation to his insight and remediation, and the importance of not removing a competent GP from practice for any longer than is necessary.

29. The Tribunal noted that Dr Pooley has complied with interim conditions and was of the view that conditions could have been workable in principle. However, the imposition of conditions on Dr Pooley's registration would not adequately address the public interest concerns. The Tribunal was of the view that a reasonably informed member of the public would be appalled by Dr Pooley's behaviour and that the seriousness of the misconduct was such that conditions would not be sufficient in order to uphold proper professional standards or to maintain public confidence in the profession.

30. The Tribunal determined that it would not be appropriate or proportionate to direct the imposition of conditions on Dr Pooley's registration.

Suspension

31. The Tribunal then went on to consider whether suspending Dr Pooley's registration would be appropriate and proportionate.

32. The Tribunal had regard to its findings at the facts and impairment stages and to the aggravating and mitigating factors that it has identified. The Tribunal was of the view that Dr Pooley's actions in inappropriately prescribing opioid medication over a 15 month period to 19 patients were serious. It determined that Dr Pooley had risked patient safety and damaged public confidence in the profession.

33. The Tribunal balanced these factors against the public interest in not removing a competent GP from practice for any longer than is necessary. The Tribunal was conscious that Dr Pooley has fully remediated and has sufficient insight into his misconduct. No issues or complaints have been identified in terms of Dr Pooley's NHS practice and the risk of repetition in the future is minimal. The Tribunal also had regard to the mitigating factors including the admissions made, the apology given and the positive testimonials provided.

34. The Tribunal took account of paragraph 91 of the SG:

> *"Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour*

> *unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention."*

The Tribunal was of the view that suspension in this case would send out the right signal to both the public and to other members of the profession. It was appropriate given the seriousness of its findings. The Tribunal has carefully balanced the issues before it and ultimately determined that suspension of Dr Pooley's registration is necessary to uphold proper professional standards and to maintain public confidence in the profession. The Tribunal concluded that erasure of Dr Pooley's name from the Medical Register would be disproportionate.

35. The Tribunal determined to suspend Dr Pooley's registration for a period of three months. It was of the view that a longer period of suspension would be disproportionate in these specific circumstances given the factors it has balanced above.

36. The Tribunal determined not to direct a review of Dr Pooley's case. The Tribunal concluded that Dr Pooley has insight into his misconduct and has fully remediated. It imposed a period of suspension on Dr Pooley's registration to mark the seriousness of his conduct and to send the appropriate signal in the light of the risk to patient safety and damage to the public confidence. The Tribunal determined that it was proportionate to return an otherwise safe and competent GP to practice after this period of suspension, without a review, given the full remediation and insight shown.

Determination on Immediate Order - 18/07/2019

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

GMC Submissions

2. Mr Sastry submitted that an immediate order was necessary to protect public confidence in the profession. He acknowledged the Tribunal's findings that the risk of repetition is minimal.

3. Whilst the Tribunal was in camera, Mr Sastry informed the Tribunal that he now had instructions to submit that an immediate order was not necessary in Dr Pooley's case.

Submissions on Dr Pooley's behalf

4. Mr Colman stated that the Tribunal could impose an immediate order if it was necessary or in the public interest to do so. He referred to the Tribunal's determination on sanction that Dr Pooley has remediated his conduct and that a period of suspension for longer than three months would be disproportionate. Mr Colman submitted that the imposition of an immediate order would increase the period of suspension by at least a third and this would be disproportionate.

5. Mr Colman submitted that an immediate order should not be imposed as there was no necessity to take immediate action to protect public confidence in the profession. He stated that the deferred action would have the desired effect.

6. Mr Colman confirmed that there was an interim order in place on Dr Pooley's registration.

The Tribunal's Determination

7. In making its decision the Tribunal exercised its own judgement. It had regard to paragraph 172 of the SG, which states:

> *"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…"*

8. The Tribunal noted that the interim conditions placed on Dr Pooley's registration included the requirement not to issue private prescriptions. The Tribunal recognised that it had imposed the substantive period of suspension in order to send a message to Dr Pooley, the public and the profession.

9. The Tribunal was unable to identify any risks in this case which would justify the imposition of an immediate order. Further, it did not consider that such an order would be necessary or appropriate.

10. The Tribunal determined not to impose an immediate order of suspension on Dr Pooley's registration.

11. This means that Dr Pooley's registration will be suspended 28 days from today, unless he lodges an appeal. If Dr Pooley does lodge an appeal he will remain free to practise unrestricted until the outcome of any appeal is known.

12. The interim order currently imposed on Dr Pooley's registration will be revoked with immediate effect.

13. That concludes this case.

Confirmed
Date 18 July 2019 Mr Sean Ell, Chair

ANNEX A - 24/06/2019

Application for exclusion of evidence

1. Mr Sastry, Counsel on behalf of the General Medical Council (GMC), made an application under Rule 16A(2)(b) of the GMC (Fitness to Practise Rules) 2004 as amended ('the Rules'), that the admission of an expert report prepared by Dr T on behalf of Dr Pooley, should be refused. He also put Dr Pooley and the Tribunal on notice that the GMC would be applying for a costs award under Rule 16A(2)(c).

GMC Submissions

2. Mr Sastry submitted that his application related to the exclusion of Dr T's 21 page expert report dated 13 June 2019. Mr Sastry stated that the report had been served on the GMC on 17 June 2019, some five working days before this hearing. He stated that the GMC was unable to raise this matter with the MPTS Case Manager as the report was only noticed on 20 June 2019 and all MPTS staff were on a training day on 21 June 2019.

3. Mr Sastry referred the Tribunal to Rule 16A(2)(b) of the Rules. This gives the Tribunal a discretion, if there has been a failure to comply with the Rules or a direction issued by the Tribunal or Case Manager, to refuse to admit evidence where the failure relates to the admissibility of that evidence.

4. Mr Sastry stated that Dr Pooley's legal representatives did not indicate at a pre-hearing case management meeting on 12 February 2019 that they were seeking expert evidence. He submitted that they had, in fact, confirmed that they would not be doing so and therefore no directions were made by the MPTS Case Manager in that regard. Mr Sastry also submitted that no reference to a defence expert was made at the second pre-hearing case management meeting on 16 April 2019.

5. Mr Sastry stated that Dr T appears to have been formally instructed on 25 April 2019, some nine days after the second pre-hearing meeting. There was correspondence between the parties in May 2019 as to clarification on some aspects of the Allegation that Dr Pooley faces. Mr Sastry stated that there had also been correspondence exchanged in relation to the agreement of a joint bundle, which was confirmed on 10 June 2019, and an agreed hearing timetable but that no mention of Dr T's evidence was made at that time.

6. Mr Sastry submitted that Dr Pooley should not be permitted to rely on Dr T's expert report given the manner of the admission of the report and the wholesale disregard of the Rules and case management process.

Submissions on Dr Pooley's behalf

7. Mr Colman submitted that it had originally been the position that there would be no expert evidence on Dr Pooley's behalf but that, at the end of April 2019, the relevant medico-legal adviser had changed. The new medico-legal adviser had dealt with similar cases in which Dr T had been instructed. Mr Colman explained that the expert therefore came to the attention of Dr Pooley's solicitors. Mr Colman submitted that the issues of dispute were limited and it remained the position that a large number of admissions would be made.

8. Mr Colman explained that there had been a number of documents missing from the GMC bundle in respect of Patients B, C, E and F and that the GMC was asked to seek these further documents from the White Pharmacy. Mr Colman stated that the documents had been sent from the White Pharmacy in a piecemeal fashion, despite repeated requests from the GMC to ask the Pharmacy to provide all of their records. Mr Colman said that Dr T reserved his position in the absence of those additional records. The documents were provided to Dr Pooley's legal representatives by the GMC on 21 June 2019.

9. Mr Colman submitted that there had also been missing documents in relation to Patients G and I, the documents being received by Dr Pooley's legal representatives today, which also delayed a final view from Dr T. Mr Colman explained that Dr T was initially instructed on 25 April 2019 and his report was completed, as far as it could be, by 13 June 2019. He submitted that the defence had not been sitting on the report or been acting in bad faith. Mr Colman referred to the case management directions that GMC disclosure was due to be completed by 1 March 2019 but that, given the further enquiries, this has not happened.

10. Mr Colman asked what prejudice the admission of Dr T's evidence would cause. He stated that the GMC expert has now had the time to see Dr T's report and discuss matters with him. Mr Colman submitted that Dr Pooley would be deprived of expert support on those matters in the Allegation that he contests and it would seriously undermine his defence. Further, Mr Colman submitted that the lack of additional expert evidence would prejudice the fairness of the hearing because it would allow the Tribunal to consider only the GMC's expert evidence. Mr Colman submitted that Dr T's evidence should not be refused and that it was fair to admit the evidence.

The Relevant Legal Principles

11. The Legal Assessor advised the Tribunal to consider Rule 16A(2)(b) of the Rules, as detailed above, in conjunction with Rule 34(1) of the Rules:

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

He stated that, even if there has been a breach of the case management provisions, the refusal under Rule 16A was a discretion for the Tribunal. He advised that the Rule 34(1) test of relevance and fairness would assist when the Tribunal decided whether to exercise its discretion under Rule 16A(2)(b).

Tribunal's Decision

12. The Tribunal determined that it could make its decision without sight of Dr T's expert report. It noted the submissions of both parties, including the explanation that the GMC disclosure process has occurred in a piecemeal fashion because of a lack of disclosure from White Pharmacy. The Tribunal was mindful that disclosure of documents to Dr Pooley had continued until today and has heard that they were relevant to the case that Dr Pooley faces.

13. The Tribunal noted that Dr Pooley's legal representatives instructed an expert, Dr T, on 25 April 2019 but did not mention this instruction to the GMC. The Tribunal was of the view that a reference to this expert would have been helpful to the GMC but had regard to Mr Colman's submissions that matters were still being clarified given the ongoing disclosure from the GMC.

14. The Tribunal had regard to the impact on Dr Pooley if the admission of Dr T's expert report were to be refused. It was mindful that both experts have now had an opportunity for discussion. Dr T's expert report is clearly relevant to the issues in the case.

15. The Tribunal determined that there would be significant unfairness to Dr Pooley if the expert report was not admitted. It did not consider that there would be unfairness to the GMC and, even if there had been, this would have been outweighed by the unfairness to Dr Pooley if the report was excluded.

16. The Tribunal has not been asked to consider the question of any application for costs at this point.

17. The Tribunal determined to refuse Mr Sastry's application and to admit the expert report prepared by Dr T.

ANNEX B - 01/07/2019

Application to hear Dr T's evidence out of turn

1. Mr Colman made an application for Dr T's oral evidence to be heard out of turn. He asked for his evidence to be heard before Dr Pooley gave evidence.

Submissions on Dr Pooley's behalf

2. Mr Colman submitted that he had originally planned for Dr T to give his evidence to the Tribunal after Dr Pooley's evidence. However he stated that the matter had arisen because Mr Connolly required further time, as he had only recently been instructed by Dr Dharmasena.

3. Mr Colman submitted that it was a balancing exercise and, given the fair allowances made to Dr Dharmasena, there should be no resulting unfairness to the other parties. He submitted that calling Dr T to give his evidence out of turn does not cause injustice to the GMC but that the inability to call Dr T could deprive Dr Pooley of the opportunity to provide expert evidence on his behalf and for the GMC to cross examine the witness.

4. Mr Colman submitted that Dr T is a practising GP and has clinical commitments. He submitted that the best solution was to call Dr T before hearing from Dr Pooley.

Submissions on Dr Dharmasena's behalf

5. Mr Connolly submitted that there was no prejudice in hearing Dr T out of turn and that they did not object to Mr Colman's application.

GMC Submissions

6. Mr Sastry submitted that he was instructed to object to the application. He stated that it was not in accordance with the conventional approach. Mr Sastry submitted that, whilst he would not wish any unfairness to Dr Pooley, he asked the Tribunal to consider if there were any other ways that the evidence could be heard and the availability considered.

The Relevant Legal Principles

7. The Legal Assessor referred to a number of factors that the Tribunal may consider, including any delay that may be the result of refusing the application and the reason for the usual procedure where a practitioner gives evidence first. He advised that this order is more important in relation to witnesses of fact rather than witnesses of opinion, such as Dr T.

Tribunal's Decision

8. The Tribunal noted that the GMC was unable to identify any prejudice in hearing Dr T's evidence out of turn. The Tribunal was unable to find any prejudice to Dr Dharmasena given the additional time that has been allowed to him and his legal representative.

9. The Tribunal was mindful that Dr T is a witness of opinion rather than fact and concluded that there would be no disadvantage in the Tribunal's assessment of Dr Pooley in this regard. The Tribunal had regard to the potential risk of lengthy delays in the proceedings if this application was not granted given Dr T's limited availability.

10. The Tribunal determined to grant Mr Colman's application to hear Dr T out of order.

Schedule One

Patient	Date	Prescription
A	4 March 2016	100 Dihydrocodeine 30mg tablets
A	18 March 2016	100 Dihydrocodeine 30mg tablets
A	1 April 2016	100 Dihydrocodeine 30mg tablets
A	15 April 2016	100 Dihydrocodeine 30mg tablets
A	5 May 2016	100 Dihydrocodeine 30mg tablets
A	19 May 2016	100 Dihydrocodeine 30mg tablets
A	3 June 2016	100 Dihydrocodeine 30mg tablets
A	17 June 2016	100 Dihydrocodeine 30mg tablets
A	1 July 2016	100 Dihydrocodeine 30mg tablets
A	18 July2016	100 Dihydrocodeine 30mg tablets
A	31 July 2016	100 Dihydrocodeine 30mg tablets
A	12 September 2016	100 Dihydrocodeine 30mg tablets
A	17 October 2016	100 Dihydrocodeine 30mg tablets
A	10 November 2016	100 Dihydrocodeine 30mg tablets
A	1 December 2016	100 Dihydrocodeine 30mg tablets
A	18 December 2016	100 Dihydrocodeine 30mg tablets
A	5 January 2017	100 Dihydrocodeine 30mg tablets
A	20 March 2017	100 Dihydrocodeine 30mg tablets
A	10 April 2017	100 Dihydrocodeine 30mg tablets
A	10 May 2017	100 Codeine 30mg tablets
B	7 October 2016	200 Codeine 30mg tablets
B	3 November 2016	200 Codeine 30mg tablets

B	28 November 2016	200 Codeine 30mg tablets
B	22 December 2016	200 Codeine 30mg tablets
C	24 March 2016	100 Dihydrocodeine 30mg tablets
C	11 October 2016	200 Dihydrocodeine 30mg tablets
C	28 December 2016	200 Dihydrocodeine 30mg tablets
D	27 July 2016	200 Dihydrocodeine 30mg tablets
D	22 August 2016	200 Dihydrocodeine 30mg tablets
D	3 November 2016	200 Codeine 30mg tablets
D	1 March 2017	100 Dihydrocodeine 30mg tablets
D	20 March 2017	100 Dihydrocodeine 30mg tablets
D	11 April 2017	200 Dihydrocodeine 30mg tablets
D	3 May 2017	200 Dihydrocodeine 30mg tablets
E	31 July 2016	200 Codeine 30mg tablets
F	10 November 2016	100 Dihydrocodeine 30mg tablets
F	29 December 2017	100 Dihydrocodeine 30g tablets
G	11 November 2016	200 Dihydrocodeine 30mg tablets
G	15 December2016	200 Dihydrocodeine 30mg tablets
G	12 January 2017	200 Dihydrocodeine 30mg tablets
G	28 February 2017	200 Dihydrocodeine 30mg tablets
G	22 March 2017	200 Dihydrocodeine 30mg tablets
H	28 July 2016	200 Dihydrocodeine 30mg tablets
H	4 September 2016	200 Dihydrocodeine 30mg tablets
H	4 October 2016	200 Dihydrocodeine 30mg tablets
H	1 November 2016	200 Dihydrocodeine 30mg tablets

H	25 December 2016	200 Dihydrocodeine 30mg tablets
H	29 March 2017	200 Dihydrocodeine 30mg tablets
H	26 April 2017	200 Dihydrocodeine 30mg tablets
I	18 January 2016	200 Dihydrocodeine 30mg tablets
I	18 March 2016	200 Dihydrocodeine 30mg tablets
I	9 May 2016	200 Dihydrocodeine 30mg tablets
I	31 May 2016	200 Dihydrocodeine 30mg tablets
I	21 July 2016	200 Dihydrocodeine 30mg tablets
I	15 August 2016	200 Dihydrocodeine 30mg tablets
I	20 September 2016	200 Dihydrocodeine 30mg tablets
I	13 October 2016	200 Dihydrocodeine 30mg tablets
I	20 December 2016	200 Dihydrocodeine 30mg tablets
I	28 April 2017	200 Dihydrocodeine 30mg tablets
I	23 May 2017	200 Dihydrocodeine 30mg tablets
J	6 May 2016	200 Dihydrocodeine 30mg tablets
J	14 December 2016	200 Codeine 30mg tablets
J	13 January 2017	200 Co-codamol effervescent 30g tablets
J	2 May 2017	200 Co-codamol 30g tablets
K	10 May 2017	100 Solpadol 30/500 effervescent tablets
L	8 May 2017	100 Codeine 30mg tablets
M	16 March 2016	200 Dihydrocodeine 30mg tablets
M	12 April 2016	200 Dihydrocodeine 30mg tablets
M	18 May 2016	200 Dihydrocodeine 30mg tablets

M	15 June 2016	200 Dihydrocodeine 30mg tablets
M	11 July 2016	200 Dihydrocodeine 30mg tablets
M	11 August 2016	200 Dihydrocodeine 30mg tablets
M	21 October 2016	200 Dihydrocodeine 30mg tablets
M	24 November 2016	200 Dihydrocodeine 30mg tablets
N	13 April 2016	200 Dihydrocodeine 30mg tablets
N	9 May 2016	200 Dihydrocodeine 30mg tablets
N	28 July 2016	200 Dihydrocodeine 30mg tablets
N	22 August 2016	200 Dihydrocodeine 30mg tablets
N	12 September 2016	200 Dihydrocodeine 30mg tablets
N	3 November 2016	200 Dihydrocodeine 30mg tablets
N	7 December 2016	200 Dihydrocodeine 30mg tablets
N	28 February 2017	200 Dihydrocodeine 30mg tablets
N	26 March 2017	200 Dihydrocodeine 30mg tablets
N	22 April 2017	200 Dihydrocodeine 30mg tablets
O	8 February 2016	100 Solpadol 30/500mg caplets
O	19 April 2016	100 Solpadol 30/500mg caplets
O	19 May 2016	100 Solpadol 30/500mg caplets
O	3 June 2016	100 Solpadol 30/500mg caplets
O	19 June 2016	100 Solpadol 30/500mg caplets
O	4 July 2016	100 Solpadol 30/500mg caplets
O	17 July 2016	100 Solpadol 30/500mg caplets

O	30 July 2016	100 Solpadol 30/500mg caplets
O	30 August 2016	100 Solpadol 30/500mg caplets
O	13 September 2016	100 Solpadol 30/500mg caplets
O	28 September 2016	100 Solpadol 30/500mg caplets
O	13 October 2016	100 Solpadol 30/500mg caplets
O	26 October 2016	100 Solpadol 30/500mg caplets
O	9 November 2016	100 Solpadol 30/500mg caplets
O	24 November 2016	100 Solpadol 30/500mg caplets
O	12 December 2016	100 Solpadol 30/500mg caplets
O	27 December 2016	200 Solpadol 30/500mg caplets
O	21 March 2017	100 Solpadol 30/500mg caplets
O	3 April 2017	100 Solpadol 30/500mg caplets
O	1 May 2017	100 Solpadol 30/500mg caplets
O	15 May 2017	100 Solpadol 30/500mg caplets
O	29 May 2017	100 Solpadol 30/500mg caplets
P	25 April 2016	100 Dihydrocodeine 30mg tablets
P	9 May 2016	100 Dihydrocodeine 30mg tablets
P	20 July 2016	100 Dihydrocodeine 30mg tablets
P	23 August 2016	100 Dihydrocodeine 30mg tablets
P	21 September 2016	100 Dihydrocodeine 30mg tablets
P	18 October 2016	100 Dihydrocodeine 30mg tablets
P	16 November 2016	200 Dihydrocodeine 30mg tablets

P	28 February 2017	100 Dihydrocodeine 30mg tablets
P	14 March 2017	100 Dihydrocodeine 30mg tablets
P	24 March 2017	100 Dihydrocodeine 30mg tablets
P	16 April 2017	100 Dihydrocodeine 30mg tablets
Q	3 October 2016	100 Dihydrocodeine 30mg tablets
Q	25 October 2016	100 Dihydrocodeine 30mg tablets
Q	26 December 2016	200 Dihydrocodeine 30mg tablets
Q	18 May 2017	200 Dihydrocodeine 30mg tablets
R	15 June 2017	30 Dihydrocodeine 30mg tablets
R	21 June 2017	30 Dihydrocodeine 30mg tablets
S	24 July 2017	30 Co-codamol 30mg tablets