

PUBLIC RECORD

Dates: 13/12/2023 - 14/12/2023

Medical Practitioner's name:	Dr Elizabeth COLMAN-NALLY
GMC reference number:	7492123
Primary medical qualification:	MB ChB 2015 University of Liverpool
Type of case	Outcome on impairment
Review - Misconduct	Impaired

Summary of outcome

Erasure
Immediate order

Tribunal:

Legally Qualified Chair	Ms Louise Sweet
Medical Tribunal Member:	Dr Jill Edwards
Medical Tribunal Member:	Dr Nigel Langford
Tribunal Clerk:	Ms Fiona Johnson

Attendance and Representation:

Medical Practitioner:	Not present, not represented
GMC Representative:	Ms Megan Tollitt, Counsel,

Attendance of Press / Public

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

Overarching Objective

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

Determination on Impairment - 13/12/2023

1. Dr Colman-Nally qualified in the UK in 2015 and, prior to the events which are the subject of the hearing, Dr Colman-Nally had undertaken her Foundation Year 2 Training, which she completed in August 2018. At the time of the events, Dr Colman-Nally was practising as a locum doctor, through the locum agency MedEcho, at Worthing Hospital ('the hospital').
2. Dr Colman-Nally's substantive hearing concluded on 3 June 2021 ('the 2021 Tribunal'). The 2021 Tribunal found proved that, on or around 3 December 2018, Dr Colman-Nally submitted a timesheet for two locum shifts in the Accident and Emergency Department at the Hospital which was inaccurate. She had worked a reduced shift on 1 December 2018, XXX, and had not worked at all on 2 December 2018. She had added these shifts to the timesheet after it had been signed off. She purported to have worked two full shifts on 1 and 2 December 2018. It was found that these actions were dishonest. In addition, the 2021 Tribunal found that Dr Colman-Nally had failed to notify the Hospital that she would not be attending her shift on 2 December 2018.
3. The 2021 Tribunal considered that Dr Colman-Nally deeply regretted her actions, despite her denial of dishonesty. However, the 2021 Tribunal was not satisfied that Dr Colman-Nally had shown complete insight into the gravity of her actions. The 2021 Tribunal noted that the focus of Dr Colman-Nally's reflection on her conduct had been on the impact it had had on herself and, to a lesser extent, her employers. She failed to consider the wider implications of her actions on patients. The 2021 Tribunal did not consider that Dr Colman-Nally had fully reflected upon the impact that her dishonesty would have had on the reputation of the profession. Regardless of personal circumstances, dishonesty in any context, let alone in the context of medical practice, cannot be justified.
4. The 2021 Tribunal took into account Dr Colman-Nally's personal circumstances at the relevant XXX. The 2021 Tribunal considered, however, that these circumstances did not mean that Dr Colman-Nally would not have been conscious of the fact that she had not performed the shifts which she had included on the timesheet. The 2021 Tribunal concluded that these actions would be considered dishonest by the standards of ordinary decent people.

5. The 2021 Tribunal concluded that, without further reflection on her misconduct, Dr Colman-Nally is unlikely to develop sufficient insight into her actions. The Tribunal considered that unless Dr Colman-Nally is able to demonstrate candour, recognise when she is at fault and accept responsibility for her actions, there must remain some risk of repetition. The 2021 Tribunal took the view that, despite her expressions of remorse and regret as to her actions, she had not developed full insight into the gravity of her actions. The 2021 Tribunal considered that Dr Colman-Nally seemed to *'bury her head in the sand'* and found it difficult to acknowledge when she had been at fault. The 2021 Tribunal found this trait concerning but did not form the view that it amounted to a “deep-seated attitudinal” problem. It considered that Dr Colman-Nally needed to address this issue to be able to safely return to clinical practice.

6. The 2021 Tribunal considered that, as this was an isolated incident, involving a relatively junior doctor who was under considerable stress due to her personal circumstances, this was not a case of misconduct which was fundamentally incompatible with continued medical registration. It noted that Dr Colman-Nally had applied and then withdrawn her application for Voluntary Erasure and was unsure if she wished to proceed with her medical career. The 2021 Tribunal, therefore, determined to suspend Dr Colman-Nally's name from the medical register for a period of 12 months.

7. The 2021 Tribunal considered that a reviewing Tribunal would be assisted by an in-depth reflection of her acts and omissions during the events in the allegation, as well as any other information that she considered would assist them.

June 2022 Review Hearing

8. Dr Colman-Nally's case was most recently reviewed by an MPT on 17 June 2022 ('the June 2022 Tribunal/Review 1') at which Dr Colman-Nally's registration was suspended for a further period of six months.

9. The June 2022 Tribunal noted Dr Colman-Nally's lack of engagement with the proceedings since the conclusion of the 2021 hearing. It concluded that, in the absence of any evidence of Dr Colman-Nally having developed insight into her misconduct, there was no basis on which it could find that her fitness to practise was no longer impaired. The June 2022 Tribunal therefore found that Dr Colman-Nally's fitness to practise remained impaired by reason of her misconduct.

10. The June 2022 Tribunal determined to suspend Dr Colman-Nally's registration for a further period of six months. It considered that her conduct was serious but was not fundamentally incompatible with continued registration. It considered that a further period of suspension would allow Dr Colman-Nally time to re-engage with the process to demonstrate that she was fit to return to practise.

11. The June 2022 Tribunal considered that it would assist a future reviewing Tribunal to receive:

- An in-depth reflection of her acts and omissions during the events in the Allegation as requested by the 2021 Tribunal.
- Any other information that Dr Colman-Nally considers will assist.
- Evidence of any Continuing Professional Development ('CPD') activities she has undertaken or any other evidence to demonstrate that she has kept her clinical knowledge and skills up to date.

December 2022 Review hearing

12. The December 2022 Tribunal (Review 2) took into account Dr Colman-Nally's non-engagement with the regulatory process throughout the course of her suspension. The December 2022 Tribunal considered the position had not changed since the last review of Dr Colman-Nally's case, as there has been no new evidence provided to demonstrate any reflection or remediation on her part. The December 2022 Tribunal considered that, in respect of the level of insight and remediation, the situation remained the same as it was at Review 1.

13. The December 2022 Tribunal considered that a further period of suspension of 12 months would allow Dr Colman-Nally a further opportunity to demonstrate that she had reflected on the impact of her actions on patients, understands the gravity of dishonesty and had gained full insight into her wrongdoing. It would also give Dr Colman-Nally time to gather evidence about how she has kept her clinical knowledge up to date during the period of suspension.

14. The December 2022 Tribunal considered that it would assist a future reviewing Tribunal to receive:

- Evidence of the development of Dr Colman-Nally's insight.
- Evidence that Dr Colman-Nally has kept her clinical knowledge and skills up to date.

Today's Review hearing (Review 3)

15. The Tribunal granted the GMC's application, made pursuant to Rules 15, 31 and 40 of the Rules, that the Tribunal proceed in the absence of Dr Colman-Nally on the basis that notification of the hearing had been properly served and that Dr Colman-Nally had voluntarily decided not to attend the review hearing. The Tribunal's full determination on service and proceeding in the doctor's absence can be found at Annex A.

16. This determination will be handed down in private. However, as this case concerns Dr Colman-Nally's misconduct a redacted version will be published at the close of the hearing with those matters relating to XXX.

The Evidence

17. The Tribunal has taken into account all the evidence received.
18. The Tribunal received:
 - Previous MPT determinations.
 - MPT information request letter, dated 25 August 2023.
 - Letter sent via e mail at 8.31pm on 12 December 2023 from Dr Coleman-Nally.

Submissions

19. On behalf of the GMC, Ms Megan Tollitt noted that there is now a late additional statement from Dr Colman-Nally. XXX. The statement also refers to doing, a few online courses, though no further details were provided of those courses.
20. She submitted that it has been almost 12 months since the last review hearing and, until yesterday evening, Doctor Colman-Nally had not provided any additional evidence to the Tribunal. She said that Dr Colman-Nally had every opportunity to contact the GMC or MPTS over the course of the last year to explain her current position but had not done so until the 11th hour.
21. She submitted that the Tribunal are in a similar position to the first review, where there had been belated telephone contact and an email from the doctor, on the morning of the hearing.
22. She submitted that the statement provided by the doctor yesterday is somewhat too little, too late. XXX.
23. She submitted that the statement does show a level of reflection and refers to taking full accountability, however there are no specific reflections. She submitted that there is insufficient evidence before the Tribunal today that the doctor has fully addressed the concerns raised by previous Tribunals or developed insight into her misconduct and, in the absence of such, the risk of misconduct remains.

The Relevant Legal Principles

24. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone, taking into account the statutory overriding objective.
25. At this stage the burden of proof is on the doctor to demonstrate that all the concerns which have been identified previously have been adequately addressed and she would be safe to return to unrestricted practice.
26. This Tribunal must determine whether Dr Colman-Nally's fitness to practise is impaired today, taking into account Dr Colman-Nally'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.

27. The Tribunal noted those matters that the previous Tribunals set out for any future Tribunal to be assisted by.

The Tribunal's Determination on Impairment

28. The Tribunal noted that Dr Colman-Nally's misconduct related to two acts of dishonesty which took place over a short period of time, 48 hours. As set out in previous determinations, it noted that her misconduct was out of character. Dr Colman-Nally was a junior doctor at the time. She was expecting her first child. It was a difficult and emotional time for her.

29. The Tribunal considered there has been no change in Dr Colman-Nally's circumstances since the last review hearing. It noted that she has been out of clinical practice since 2018 and has been unable to present any robust evidence to the Tribunal showing any further progress since she was suspended in January 2021.

30. The Tribunal noted that in Dr Colman-Nally's statement she has expressed remorse and regret over her actions. XXX.

31. The Tribunal does accept that Dr Colman-Nally has XXX undertaken online courses. However, no evidence has been provided to support the same. Therefore, the Tribunal cannot test the steps she has taken are relevant to her insight and remediation nor, if relevant, their success or otherwise.

32. The Tribunal accepts that Dr Colman-Nally regrets her actions. This is further evidenced in her letter to the GMC dated 12 December 2023. However, the Tribunal determined that Dr Colman-Nally has failed sufficiently to demonstrate that she has reflected on or understood the gravity of her dishonesty on the profession as a whole or the wider impact on public trust. The Tribunal was of the view she has she has not fully reflected and therefore not gained full insight into her wrongdoing.

33. The Tribunal noted Dr Colman-Nally refers to completing online courses. These are not detailed and no certificates are provided and therefore it is not known what their relevance is. It is now five years since Dr Colman-Nally has been in clinical practice. She has not demonstrated, therefore as she was asked to do by previous Tribunals, that she has kept up to date with her medical knowledge.

34. The Tribunal noted that this was serious misconduct that related to matters of dishonesty. There has been a breach of a fundamental tenet of the medical profession. Further, Dr Colman-Nally has been given ample opportunity to provide evidence of insight and remediation. The Tribunal determined that Dr Colman-Nally has not provided any robust evidence in relation to her misconduct.

35. Owing to the lack of additional evidence of insight and remediation in relation to her misconduct and in line with her previous Tribunal hearings. It was difficult for the Tribunal, in all the circumstances, to rule out the risk of repetition given the lack of engagement and evidence provided to this Tribunal.

36. As Dr Colman-Nally has therefore not provided further evidence that she has remediated her misconduct to evidence that she is fit to practise, this Tribunal is satisfied that patients may be at risk and public confidence undermined if Dr Colman-Nally's fitness to practise was found to be not impaired and she was allowed to practise without restriction.

37. This Tribunal has therefore determined that Dr Colman-Nally's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 14/12/2023

1. Having determined that Dr Colman-Nally's fitness to practise is impaired by reason of her misconduct, the Tribunal must now decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to Dr Colman-Nally's registration.

Submissions

2. On behalf of the GMC, Ms Tollitt submitted that a sanction of erasure is the appropriate and proportionate sanction in this case. She referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (November 2020 edition) ('the SG'). Ms Tollitt submitted that there has been a shift in the facts since the finding of the December 2022 Tribunal and that Dr Colman-Nally's conduct is now fundamentally incompatible with continued registration.

3. She submitted that Dr Colman-Nally has now been suspended for two and half years, the doctor has been suspended three times and at each suspension she has been given the opportunity to provide evidence of remediation. Dr Colman-Nally only provided a statement at the last minute yesterday.

4. She submitted that there has been lack of engagement by the doctor and suspension now is not a sufficient sanction in this case.

5. She submitted that it has been almost 12 months since the last review hearing and, until yesterday evening, the doctor had not provided any additional evidence to the Tribunal. She submitted that the doctor had every opportunity to contact her regulator or MPTS over the course of the last year to explain her current position.

6. She submitted that since the original fitness to practice hearing that concluded in mid 2021, there is insufficient evidence before the Tribunal that the doctor has fully addressed

the concerns raised or developed insight into her misconduct and, in the absence of such, it is submitted that the risk of misconduct remains.

7. She submitted that the doctor has not practiced for five years a considerable period of time. She submitted that there is also no evidence before the Tribunal that the doctor has kept her medical knowledge up to date, as required. She said there is no information or evidence on what courses she says she has attended or how relevant they are.

The Tribunal's Determination

Relevant Legal Principles

8. The Tribunal's decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgment. In making its determination the Tribunal should consider the least restrictive sanction first, before moving on to consider the other available sanctions in ascending order of severity. The Tribunal was aware that the main purpose of imposing a sanction is to protect the public. Its purpose is not to punish, although it may have a punitive effect. The Tribunal should also weigh the public interest against the interests of the doctor. The Tribunal accepted that interests of the doctor were not as important as the medical profession as a whole.

9. In reaching its decision, the Tribunal should assess any mitigating and aggravating features in the case, in the context of the Sanctions Guidelines and the statutory overarching objective: protecting and promoting the health, safety and well-being of the public, promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct.

Aggravating and Mitigating factors

10. In reaching its determination, the Tribunal considered whether there were any aggravating or mitigating factors to consider in this case.

11. The Tribunal took into account paragraph 1 and 65 of the GMP:

'1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues,1 are honest and trustworthy, and act with integrity and within the law.

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

12. The aggravating factors identified were as follows:

- a) Dr Colman-Nally breached a fundamental tenet of the medical profession by her acts of dishonesty.
- b) Dr Colman-Nally has shown a persistent lack of engagement with her regulator.
- c) Dr Colman-Nally is only engaging with her regulator at the very last minute.
- d) Dr Colman-Nally failed to submit evidence of remediation and insight as requested by previous Tribunal's and despite repeated opportunities to do so.
- e) Dr Colman-Nally failed to submit evidence of maintaining her medical knowledge despite being directed to do so.

13. The mitigating factors identified were as follows:

- a) Dr Colman-Nally's difficult personal circumstances at time of her misconduct and more recently as described in the letter of 12 December 2023;
- b) Dr Colman-Nally is still a junior doctor and is very inexperienced.

No action

14. The Tribunal was satisfied that there were no exceptional circumstances in Dr Colman-Nally's case which could justify it taking no action. It determined that, given the circumstances of this case, taking no action would be inappropriate, inadequate and would not be in the public interest.

Conditions

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

16. The Tribunal considered that conditions were not practical or workable. It would not be possible to formulate workable conditions to address the concerns regarding Dr Colman-Nally's fitness to practise. The Tribunal bore in mind that Dr Colman-Nally's co-operation has been limited. The Tribunal was not satisfied that she would comply with conditions, which would require oversight by the GMC.

17. The Tribunal therefore determined that imposing a period of conditional registration would not be appropriate in this case.

Suspension

18. The Tribunal next considered whether extending the period of suspension on Dr Colman-Nally's registration would be appropriate.

19. The Tribunal had regard to paragraphs 91, 92, 95 and 97 of the SG, which set out situations in which suspension may be the appropriate course:

'91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).

95 In such cases, to protect the public, the tribunal might wish to impose a period of suspension. The suspension will need to be reviewed and therefore a review hearing should be directed. Such a direction should indicate in broad terms the type of action and evidence of remediation (such as complying with any invitations from the GMC to undergo a performance assessment or English language assessment) which, if carried out during the period of suspension, may help the tribunal's evaluation at any subsequent review hearing. However, the tribunal should bear in mind that during the period of suspension the doctor will not be able to practise

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

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

....

e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.

f No evidence of repetition of similar behaviour since incident.

g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.'

20. The Tribunal noted this was the third review hearing. It had regard to the lack of evidence of insight or remediation at any prior hearing. There was no robust evidence

produced for this hearing. The lack of evidence adversely impacted the ability of the Tribunal to assess any risk of repetition. The Tribunal noted that the SG indicated that an absence of evidence of remediation indicated that suspension may not be appropriate.

21. The Tribunal concluded that the seriousness of the underlying conduct was aggravated by Dr Colman-Nally's disregard for the regulatory process. This, coupled with Dr Colman-Nally's persistent lack of engagement and inability to produce robust evidence, limited the Tribunal's ability to assess insight, remediation and the risk of repetition. This led the Tribunal to conclude that a further sanction of suspension would be inappropriate.

22. The Tribunal noted Dr Colman-Nally's letter of the 12 December 2023 set out her desire to be a doctor. This was not doubted. However, the letter and its contents did not go nearly far enough to alleviate the concerns raised. XXX. The CPD said to be completed was not described nor were certificates provided. There was a complete lack of objective evidence to test the assertions made by Dr Colman-Nally in her letter. The Tribunal had no evidence from which to be confident that she would cooperate with her regulator in the immediate future.

23. Therefore, the Tribunal determined that a further period of suspension would be insufficient to maintain and uphold proper professional standards and protect the public confidence in the profession.

Erasure

24. In reaching its determination, the Tribunal considered the following paragraphs of the SG:

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

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

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

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

...

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

25. The Tribunal considered that all of the above paragraphs of SG are engaged in this case.

26. The Tribunal noted Dr Colman-Nally has now been suspended for two and half years. This is a long period to have not complied with the request for evidence of insight and remediation. This is more so given the nature and seriousness of the misconduct itself. Dr Colman-Nally has had repeated opportunities to restore public confidence in her and the medical profession as a whole. She has not done so. There was no basis or evidence upon which the Tribunal could place any reliance that Dr Colman-Nally would be prepared to engage in any remediation or that any such engagement would be successful.

27. The Tribunal determined that her conduct was a particularly serious departure from the principles set out in GMP and, due to her failure to engage in remediation of that misconduct, it was now fundamentally incompatible with continued registration. The Tribunal was of the view that cooperation with their professional regulator is the duty of every doctor. It is an important part of upholding professional standards, so that the public could have confidence in all doctors.

28. In all of the circumstances, the Tribunal determined that erasure was the only sanction that would be sufficient to uphold the statutory overriding objective, maintain public confidence in the profession, the regulator and the regulatory process and uphold professional standards.

29. The Tribunal directed that Dr Colman-Nally's name be erased from the Medical Register. The MPTS will send Dr Colman-Nally a letter informing her of her right of appeal and when the direction and the new sanction will come into effect.

30. Unless Dr Colman-Nally exercises her right of appeal, her name will be erased from the medical register 28 days from the date on which written notice of this decision is deemed to have been served upon her. The suspension currently imposed on Dr Colman-Nally's registration shall continue to have effect until the appeal period has concluded. If Dr Colman-Nally decides to exercise her right of appeal, the period of suspension currently imposed on her registration shall continue to have effect until the appeal has been decided. A note explaining Dr Colman-Nally's right of appeal will be sent to her.

Determination on Immediate Order - 14/12/2023

1. Having determined that Dr Colman-Nally's name should be erased from the Medical Register, the Tribunal has now considered, in accordance with Section 38 of the Medical Act 1983 as amended, whether to impose an immediate order.

2. The Tribunal has borne in mind the test to be applied with regard to imposing

an immediate order; it 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.

Submissions

3. Ms Tollitt submitted that it follows from the Tribunal's findings made at the impairment and sanction stages of the proceedings, that an immediate order of erasure is required in the public interest and patient safety.

Tribunal's decision

4. The Tribunal has taken account of the relevant paragraphs of the SG in relation to when it is appropriate to impose an immediate order. Paragraphs 172 and 173 of the SG states:

172. The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.

173. An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'

5. The Tribunal determined that an immediate order was necessary on two grounds:

a. Firstly, in relation to patient safety. Dr Colman-Nally has not practiced in five years and has not maintained her medical knowledge.

b. Secondly, in order to maintain public confidence in the medical profession and uphold proper professional standards. Her misconduct was serious and she has failed to engage with her regulator to remediate her misconduct.

6. The Tribunal determined that given the serious nature of Dr Colman-Nally's misconduct and its findings, an immediate order is necessary and in the public interest.

7. This means that Dr Colman-Nally's name will be erased from the register 28 days from when notice of this decision is deemed to have been served upon her, unless she lodges an appeal.

8. That concludes the case.

ANNEX A – 13/12/2023

Application on Service and proceeding in absence

Service

1. Dr Colman-Nally is neither present nor represented at this hearing.
2. The Tribunal firstly considered whether notice of this hearing had been properly served on Dr Colman-Nally in accordance with the General Medical Council ('GMC') ('Fitness to Practise') Rules 2004 ('the Rules') the Medical Act 1983, as amended.
3. The Tribunal considered the submissions of Ms Megan Tollitt, Counsel on behalf of the GMC, and the proof of service bundle. Ms Tollitt submitted that notification of this hearing had been properly served on Dr Colman-Nally.
4. The Tribunal was provided with a screenshot of Dr Colman-Nally's registered address, email address and telephone number.
5. The Tribunal had noted the GMC Information Letter was sent to Dr Colman-Nally on the 30 October 2023, it further noted an email exchange on the 1 November 2023 between Dr Colman-Nally and the GMC.

*'Dear Dr Colman-Nally, I hope you're well.
Further to my email yesterday, I would be grateful if you could advise whether you would accept the papers for your upcoming hearing by email, or whether you would prefer to receive a hard copy.*

.....

*Good morning
Yes apologies for late reply email will be fine
Elizabeth'*

6. The Tribunal had regard to the MPTS Notice of Hearing ('NOH') letter, which was sent in accordance with Rule 20(1)(a) of the Rules on 6 November 2023 to Dr Colman-Nally's email address. The Tribunal noted that Dr Colman-Nally replied on the 7 November 2023 acknowledging receipt of the NOH email.
7. The Tribunal also had regard to an email sent by the GMC to Dr Colman-Nally's on 30 November 2023. No response was received.

'Dear Dr Colman-Nally,

Further to my email below, I wondered if you had any documents that you wanted to submit to the tribunal?

I also wanted to ask whether you intended to attend the hearing?

Many thanks'

8. The Tribunal also had regard to a late email received by the GMC at 8.30pm by Dr Colman-Nally on 12 November 2023 where she attached a statement:

'Dear All

Apologies I can't be with you all today. XXX.

I have had a long time to reflect on everything and have come to the realization of the gravity of the situation XXX. That period in my life is very hard to relive for several reasons. Both the general chaos of it at that point, and the time where I lost the right to work in a job I adored and had worked so hard to succeed at.

I am aware now of the magnitude of the harm that I did. Regardless of whether it was intentional or not this no longer matters. What matters is that I have taken full accountability and accepted my punishment. I am aware I let the profession down and myself down. This was truly out of character for me. It was a time in my life that was immensely scary which I think made me act in ways which are against everything I stand for as an individual. If I could wave a magic wand and erase it, I would in a heartbeat. However, I cannot and have to live with that fact. After a lot of reflection XXX I think the reason, I acted in the way I did was because I was scared. I was scared to let anyone down and get in trouble, and truly I wasn't thinking straight.

XXX

Being a doctor is something that I am immensely proud of. I worked immensely hard through medical school and my foundation years. I understand that being a doctor is a total privilege and you often deal with people at their most fragile and vulnerable. I would love to be able to have the opportunity to work again. I would love to go into GP training next year and give it my all. I understand that there could be stipulations in place and that is ok with me. I understand that what I did was wrong, and I understand the trust has been broken. I would like the opportunity to regain some of that trust and make a difference to the profession. To keep myself up to date I have done a few online courses which have made me even more passionate to try and get back to doing what I so loved.'

9. The Tribunal noted the exchange of e mails meant that Dr Colman-Nally was fully aware of the hearing date. The Tribunal determined that notice of this hearing had been served on Dr Colman-Nally in accordance with Rules 20 and 40 of the GMC's (Fitness to Practise) Rules 2004, as amended, ('the Rules'), and paragraph 8 of Schedule 4 to the Medical Act 1983, as amended.

Proceeding in Absence

10. The Tribunal then went on to consider whether it would be appropriate to proceed with this hearing in Dr Colman-Nally's absence pursuant to Rule 31 of the Rules. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest.

Submissions on behalf of GMC

11. Ms Tollitt, on behalf of the GMC, submitted that Dr Colman-Nally had chosen not to attend the hearing and, accordingly, the hearing should proceed in her absence. Ms Bucklow referred the Tribunal to the case of *GMC v Adeogba [2016] EWCA Civ152*.

12. Ms Tollitt also referred the Tribunal to the case of *R v Jones [2003] 1 AC 1L*, which sets out factors to be considered when determining whether to proceed in a doctor's absence.

13. Ms Tollitt noted that this is now the third review hearing of Dr Colman-Nally's case. She submitted that Dr Colman-Nally has voluntarily absented herself from these proceedings and there has been limited engagement from the doctor. She submitted that Dr Colman-Nally has been aware of the proceedings for some time, with notice properly served as set out above, and has had the opportunity to provide written representations.

14. She submitted that there is no indication that Dr Colman-Nally would attend at a future date or that anything would be achieved by delaying this review hearing, she noted that she had expressed no desire or intention to attend until the late email received on the 12 November 2023 with her attached statement.

15. Ms Tollitt submitted that there would be minimal disadvantage to Dr Colman-Nally in proceeding in her absence as she has not provided any documents or further evidence, apart from the statement that was submitted last minute.

Tribunal's Decision

16. The Tribunal has borne in mind that its discretion to proceed in the absence of the doctor should be exercised with the utmost care and caution. The Tribunal noted the principles set out in the relevant case law as outlined by the Legally Qualified Chair, in determining whether to proceed in the absence of a practitioner, namely *Jones and Adeogba* as set out above. It also considered the need to balance Dr Colman-Nally's interests with the wider public interest in deciding whether to proceed in her absence. It noted there was a public interest in cases being disposed of in a timely manner.

17. The Tribunal considered that Dr Colman-Nally had been given the adequate time and opportunity to be present at today's review hearing and has not expressed any intention to

engage with these proceedings, save at the last-minute by her statement received by the GMC at 8.30pm on the 12 November 2023.

18. The Tribunal considered the email received by Dr Colman-Nally as an application to adjourn today's proceedings. Dr Colman-Nally has suggested that she has evidence that the Tribunal might take into consideration in determining her review case. If the case were to proceed today, the Tribunal would admit her statement as evidence as part of the evidence to be considered. XXX.

19. The Tribunal considered whether there would be any benefit to an adjournment. In doing so it was mindful of the fact that Dr Colman-Nally has not properly engaged or expressed any desire to engage with this review hearing whatsoever until this point. It was of the opinion that her last-minute, brief statement did not give the Tribunal confidence that she would engage with a future review hearing. She has not engaged in previous reviews. She has previously applied for an adjournment on the morning of a review hearing.

20. The Tribunal accepted that in her email she suggested some reasons for the lack of engagement and attendance but has not provided any XXX or other evidence in support of those reasons. The Tribunal considered Dr Colman-Nally's statement did not give any indication of when or how she would engage at a future date.

21. The Tribunal was also mindful that the suspension currently in place on Dr Colman-Nally's registration is due to expire on 6 January 2024. The Tribunal noted that to relist the hearing within this timeframe would be difficult and would not allow the requisite notice period to be given to Dr Colman-Nally. It also reminded itself that it could choose to adjourn these proceedings to some later date and extend the current order of suspension.

22. The Tribunal considered that it is in the public interest for this case to be dealt with in a timely fashion and that adjourning and relisting the hearing appropriately could delay this by a considerable time.

23. The Tribunal concluded that it was fair and just and in the public interest to hear this case without further delay and that no useful purpose would be served by an adjournment. It therefore determined that it was appropriate to proceed in Dr Colman-Nally's absence.