

PUBLIC RECORD

Dates: 02/09/2024 - 17/09/2024

Medical Practitioner's name: Dr Farrukh ZIA
GMC reference number: 5162474
Primary medical qualification: MB BS 1991 University of Punjab (Pakistan)

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

Summary of outcome

Erasure

Immediate order imposed

Tribunal:

Legally Qualified Chair:	Miss Megan Larrinaga
Lay Tribunal Member:	Mr Andrew Waite
Medical Tribunal Member:	Dr Ranjana Rani
Tribunal Clerk:	Ms Ciara Fogarty

Attendance and Representation:

Medical Practitioner:	Not present, not represented
GMC Representative:	Ms Jade Bucklow, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 10/09/2024

Background

1. Dr Zia qualified with an MBBS in 1991 from the University of Punjab, Pakistan and completed the Part 1 exam for Membership of the Royal Colleges of Surgeons in 2004. Between February 2002 and September 2011 Dr Zia worked in various medical posts in the United Kingdom and New Zealand including as a Senior House Officer, Staff Grade in Emergency Medicine and GP. Between October 2011 and February 2022 Dr Zia worked as a either Senior Medical Officer or a GP in Australia. Shortly before the matters giving rise to this hearing Dr Zia was working as an agency locum doctor for York and Scarborough NHS Foundation Trust (“the Trust”).
2. The allegations that have led to Dr Zia’s hearing can be summarised as: that on or around 1 November 2021, his registration with the Australian Health Practitioner Regulation Agency (“AHPRA”) was made the subject of undertakings (“the Undertakings”) and that he knew that the Undertakings may have rendered him liable to be referred to the General Medical Council (GMC) for an investigation or consideration of his fitness to practise. It was also alleged that on an application for restoration of his full Licence to Practise (“LTP”) he made a number of false declarations and answered “No” when asked whether he was aware of any proceedings, act or omissions which may render him liable to be referred to the GMC for investigation or consideration of his fitness to practise. It was alleged that on or around 13 May 2022 Dr Zia failed to inform his locum agency, Total Assist, that he was the subject of a GMC investigation; that on or around 18 May 2022 his temporary LTP was revoked but despite this he attended work at the Trust on eight separate occasions and agreed to work on at least one other occasion.
3. It was also alleged that on 1 June 2022 Dr Zia attended an Interim Orders Tribunal (IOT) hearing (“the IOT Hearing”) where his registration was made the subject of conditions but he failed to advise Total Assist or the Trust. It was further alleged that when challenged about the status of his registration and the revocation of his LTP by Total Assist, Dr Zia denied

any knowledge of issues affecting his licence or registration. Finally, it was alleged that Dr Zia's actions were dishonest.

Background

4. All doctors practising medicine in the United Kingdom must be registered with the GMC and have a LTP. It is unclear when Dr Zia was first registered with the GMC. All doctors who were registered with the GMC before October 2005 have the date of their registration listed as "From 20 October 2005" which is when the register went online. The GMC's register indicates that Dr Zia was registered between 20 October 2005 and 16 November 2009. He was registered with a LTP between 16 November 2009 and 3 November 2013. Between 3 November 2013 and 31 March 2020 he was registered without a licence to practice. As a result of the COVID 19 pandemic, the UK government asked the GMC to give temporary emergency registration to suitable persons as part of the response to the pandemic. The temporary licence was only intended to last for the duration of the emergency and was only to be used to support the response to the pandemic.

5. The temporary emergency licence limited activities which could be carried out, including treating coronavirus patients in the NHS or for independent sector organisations, working in routine NHS clinical or commissioned services to clear the backlogs created by the pandemic, or backfilling in routine NHS clinical or commissioned services for colleagues who were moved to treat coronavirus patients. Dr Zia's LTP was restored on 31 March 2020 as a result of the temporary emergency registration powers. Doctors who had their LTP restored under the emergency powers but wished to reinstate their full LTP were required to make a formal application on a form known as TER2.

6. When the Trust required locum doctors, it would use an agency called HCL to find a suitably qualified doctor to fill the role. HCL was the Trust's master vendor for the supply of locum doctors. Where HCL did not have a suitably qualified doctor to fill the Trust's needs, it would liaise with other agencies including Medacs. Medacs is an agency who provides recruitment and staffing to public and private healthcare sector clients. On or around April 2022 it appeared that Medacs began working directly with the Trust to supply locum doctors via a managed service. It subcontracted to other agencies to procure and supply additional locum doctors for the Trust. One such agency was Total Assist. In order to be registered with Total Assist, doctors must provide a number of documents, have an interview with a member of its compliance team and an agency worker placement checklist must be completed.

7. It appears that Dr Zia first registered with Total Assist on 7 January 2022, but his registration was not completed until 16 March 2022.

8. On 15 March 2022, Dr Zia applied to the GMC to restore his LTP. On 16 March 2022, Dr Zia had an interview with an employee of Total Assist and indicated that he was available to start work on that same day. On 16 March 2022, Dr Zia also signed a document to confirm that he had received Total Assist Agency Handbooks, accepted the contents, agreed to be bound by them and understood the terms of engagements of Total Assist. On 22 March 2022, there was an exchange of emails between Dr Zia and Total Assist in which he confirmed he would be available to work a full rota (i.e. days/nights/twilight/weekends) for the Trust. On 30 March 2022, the Trust accepted bookings for Dr Zia to work between April and July 2022.

9. When considering an application for the restoration of a LTP, the GMC requires a Medical Services Statement in support of the application from any person, body or organisation with whom the doctor has (or most recently had) an arrangement to provide medical services. Two statements to this effect were provided in respect of Dr Zia. One by a National Practice Manager for an organisation called National Home Doctor dated 22 March 2022 and one by a Senior Locum Medical Officer of Queensland Health dated 24 March 2022. Both statements highlighted that Dr Zia's registration in Australia was the subject of the Undertakings. On 23 March 2022, the GMC was provided with a Certificate of Registration Status ("CoRS") from AHPRA. The CoRS stated that in the preceding ten years Dr Zia had been the subject of a condition, undertaking, caution, reprimand or investigation which had been removed or closed. It also confirmed that one or more investigations or disciplinary proceedings were either in progress or being contemplated. The CoRS further set out the full detail of the Undertakings affecting Dr Zia's registration and stated that they had been in effect from 1 November 2021.

10. On 25 March 2022, the GMC contacted AHPRA for further details regarding the information contained in the CoRS including whether Dr Zia was aware of the investigations/proceedings referred to, the date of the incident resulting in the investigations/proceedings, the doctor's involvement and details of any outcome. AHPRA replied to the GMC on 21 April 2022 ("the 21 April Letter") confirming Dr Zia had been notified by AHPRA, that there were nine matters being considered and that six matters had been considered but had been closed with no further action. AHPRA also confirmed that it had accepted the Undertakings from Dr Zia which were set out in the CoRS and which were again set out in the 21 April Letter. AHPRA confirmed that no outcome was available for the nine outstanding matters being considered.

11. On the 13 May 2022 the GMC contacted Dr Zia to let him know there was an investigation into his fitness to practise. On 16 May 2022 Dr Zia was informed of the IOT

hearing. On 18 May 2022, the GMC’s Assistant Registrar directed that the temporary LTP issued to Dr Zia be revoked. Confirmation of the Assistant Registrar’s decision to revoke Dr Zia’s LTP was sent to him by email on 19 May 2022. Dr Zia attended the IOT Hearing remotely in which there were discussions about the status of his LTP. Ultimately, his registration was made the subject of a number of conditions including that he must notify specified persons of the conditions, that he should only work in an NHS setting, that he must be supervised in all of his posts, and he must not work in any post of less than four weeks duration.

12. On 1 June 2022, a representative of Medacs contacted Total Assist highlighting that there was an issue with Dr Zia’s registration. The issue was discovered as the Trust were seeking to book Dr Zia for further shifts but it appeared that he no longer had a LTP. An employee of Total Assist, Ms A, contacted Dr Zia and he told her he was unaware of any issues with his registration but he would try and find out. On the same day as the IOT Hearing and following its conclusion, Dr Zia attended work at the Trust. As the Trust discovered the issues affecting Dr Zia’s LTP he was asked to leave the shift and did so. He did not return for any of the further shifts he booked to work at the Trust.

13. It appeared to the Tribunal that the Trust referred Dr Zia to the GMC on or around 20 June 2022.

The Outcome of Applications made during the Facts Stage

14. The Tribunal granted an application made by Ms Jade Bucklow, Counsel on behalf of the GMC, pursuant to Rule 40 of the GMC’s (Fitness to Practise) Rules 2004, as amended (‘the Rules’), and determined that notice of this hearing had been properly served on Dr Zia. It also granted the GMC’s application made pursuant to Rule 31 of the Rules to proceed with the hearing in Dr Zia’s absence. The Tribunal’s full decision on both applications is included at Annex A.

15. The Tribunal also granted the GMC’s application, made under Rule 34(1) of the Rules to admit into evidence, two letters dated 13 May 2022 and addressed to Dr Zia. The first letter advised Dr Zia that his application for restoration to the medical register had been passed to an Investigating Officer of the GMC in light of the matters brought to the GMC’s attention by AHPRA (“the Investigation Officer Letter”). The second letter from a GMC Assistant Registrar confirmed to Dr Zia that his case had been referred to the IOT and that there would be a hearing on 1 June 2022 (“the Assistant Registrar Letter”).

16. The Tribunal determined that the letters were relevant to the matters to be determined and that their admission would be fair both to the GMC and Dr Zia.

The Allegation and the Doctor's Response

17. The Allegation made against Dr Zia is as follows:

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

1. On or around 1 November 2021 your registration with the Australian Health Practitioner Regulation Agency was made subject to undertakings ('the AHPRA Undertakings').

To be determined

2. On 15 March 2022 you submitted an application for restoration of your full UK licence to practise ('the Application'), in which you:

a. selected 'No' in response to the question 'Are you aware of any proceedings, act or omission on your part which might render you liable to be referred to the GMC for investigation or consideration of your fitness to practise?';

To be determined

b. made a declaration that:

i. you had read the guidance on what issues may render you liable to be referred to the General Medical Practice ('the GMC') for investigation or consideration of your fitness to practise;

To be determined

ii. you had read Good medical practice and understood that you had a duty to tell the GMC about any criminal or regulatory proceedings;

To be determined

iii. the information provided within the Application was correct and true.

To be determined

3. You knew that:

a. the AHPRA Undertakings may render you liable to be referred to the GMC for investigation or consideration of your fitness to practise;

To be determined

b. your response as set out in paragraph 2.a. was untrue;

To be determined

c. your declaration as set out in paragraph 2.b.iii. was false.

To be determined

4. On or around 13 May 2022 you were informed that the GMC had commenced an investigation into your fitness to practise ('the GMC Investigation') and you failed to inform Total Assist of the GMC Investigation.

To be determined

5. On or around 18 May 2022 your temporary UK licence to practise was revoked and:

a. you attended work at York and Scarborough Teaching Hospitals NHS Foundation Trust ('the Trust') without a licence to practise on one or more of the dates as set out in Schedule 1;

To be determined

b. on 1 June 2022 you were contacted by Ms A of Total Assist and you agreed to work at the Trust on 4 and/or 5 June 2022.

To be determined

6. On 1 June 2022 the Interim Orders Tribunal ('IOT') of the Medical Practitioners Tribunal Services imposed an interim order of conditions ('the Interim Order') on your registration and you failed to provide notification of conditions 1 – 7 to:

a. Total Assist;

To be determined

b. the Trust.

To be determined

7. On 1 June 2022 during a call with Ms A, in response to being asked about your registration and whether Total Assist as an agency needed to know anything as she could not check your status you:

a. told her 'you did not know anything' or words to that effect;

To be determined

b. failed to disclose that your temporary UK licence to practise had been revoked.

To be determined

8. At the time of your conversation with Ms A you knew that:

a. your temporary UK licence to practise had been revoked;

To be determined

b. you were not eligible to work as a doctor in the UK.

To be determined

9. On 6 June 2022:

a. during a call with Ms A on being told that it appeared your licence to practise had been removed on 19 May 2022 and you would have been aware of it you stated:

i. 'No I'm just reading that now';

To be determined

ii. 'I didn't receive any correspondence for that';

To be determined

iii. 'I mean, I haven't received any email from them';

To be determined

b. on being told that the attachment Ms A had sent to you stated that your licence to practise had been removed and you should not have worked from 19 May 2022 you stated 'Yes, because I didn't receive any correspondence from them so I didn't know';

To be determined

c. in an email to Ms A you stated ‘Just found out today that I have not been having license to practice since 19/05/2022. Just got that information on GMC website today’.

To be determined

10. You knew that the information you had provided to Ms A as set out at the following paragraphs was not true:

a. paragraph 9.a.;

To be determined

b. paragraph 9.b.;

To be determined

c. paragraph 9.c.

To be determined

11. Your conduct at:

a. paragraphs 2.a. and 2.b.iii. was dishonest by reason of paragraph 3;

To be determined

b. paragraph 7.a. was dishonest by reason of paragraph 8;

To be determined

c. paragraph 9 was dishonest by reason of paragraph 10.

To be determined

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

To be determined

Witness Evidence

18. The Tribunal heard oral evidence on behalf of the GMC from the following witness:

- Ms A, Recruitment Consultant, at Total Assist within the Accident and Emergency team.

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

- Ms C, Client Relationship Manager at Medacs dated 27 January 2023 and a supplemental witness statement dated 15 August 2023;
- Ms B, Operational Support Manager for Emergency Medicine at the Trust dated 15 November 2022 and supplemental witness statement dated 23 August 2023;
- Dr D, Consultant in the Emergency Department at the Trust dated 30 July 2023.

20. Dr Zia did not provide a witness statement or any other documents to the Tribunal.

Documentary Evidence

21. The Tribunal had regard to the documentary evidence which included, but was not limited to, the following:

- Witness statement from Ms A dated 22 December 2022 and supplemental statement dated 8 August 2023;
- Emails between Ms C, Ms A and Ms B, various dates;
- Correspondence between Dr Zia and Total Assist, various dates;
- Dr Zia's Total Assist Registration Form dated 16 March 2022;
- Total Assist Agency Worker Placement Checklist dated 12 April 2022;
- Total Assist Agency Worker Handbook, undated;
- Transcripts of three calls between Ms A and Dr Zia, one call on 1 June 2016 and two calls on 6 June 2022;
- Total Assist Time Sheets for Dr Zia between 26 March 2019 to 8 April 2022
- Document showing dates and times Dr Zia worked at the Trust between 15 April 2022 and 27 May 2022;
- Email showing shifts Dr Zia was booked to work at the Trust dated 30 March 2022;
- Document demonstrating Dr Zia's registration history at the GMC;
- Dr Zia's application to restore his licence to practise dated 15 March 2022;
- Dr Zia's Certificate of Registration Status from AHPRA dated 23 March 2022;
- Correspondence between the GMC and AHPRA regarding Dr Zia dated between 25 March 2022 and 21 April 2022;
- MPTS Notice of Hearing dated 16 May 2022 regarding Dr Zia's IOT hearing on 1 June;

- Screenshot of GMC’s system, “Siebel”, on 19 May 2022 communicating the Assistant Registrar’s decision to revoke Dr Zia’s LTP dated 18 May 2022;
- Hearing Commentary from Dr Zia’s IOT hearing on 1 June 2022;
- Transcript and Determination of Dr Zia’s IOT hearing on 1 June 2022;
- Dr Zia’s Curriculum Vitae.

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 Zia 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.

23. In respect of the allegation that Dr Zia acted dishonestly, the Tribunal applied the test for determining dishonesty as set out in the case of *Ivey v Genting Casinos Ltd [2017] UKSC 67* which provides that:

- (a) the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness of the belief is a matter of evidence going to whether he genuinely held the belief, but it is not an additional requirement that the belief must be reasonable; the question is whether the belief was genuinely held; and
- (b) the fact-finding tribunal must then consider whether that conduct was dishonest by the (objective) standards of ordinary decent people.

The Tribunal’s Analysis of the Evidence and Findings

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

Paragraph 1

25. The Tribunal first considered whether on or around 1 November 2021 Dr Zia’s registration with AHPRA was the subject of the Undertakings.

26. The Tribunal had regard to the CoRS from AHPRA dated 23 March 2022 which sets out the full text of the Undertakings. It also had regard to the 21 April Letter giving details as

to the circumstances of the Undertakings being imposed on Dr Zia's registration. In particular, the Tribunal noted that the 21 April Letter stated:

"On 1 November 2021, the Medical Board of Australia decided to take immediate action under section 156 of the Health Practitioner Regulation National Law... Immediate Action can be taken by the Board where it forms a reasonable belief that the practitioner poses a serious risk to persons and it necessary to take immediate action to protect public health or safety. The immediate action was in the form of accepting an undertaking from Dr Zia...."

27. The Tribunal noted the CoRS contained Dr Zia's full name and that the date of birth contained therein matched the date of birth held by the GMC for Dr Zia. In light of the content of the CoRS and the 21 April letter, the Tribunal was satisfied on the balance of probabilities that on or around 1 November 2021, Dr Zia's registration with AHPRA was made the subject of the Undertakings.

28. Accordingly, the Tribunal found paragraph 1 of the Allegation proved.

Paragraph 2(a)

29. The Tribunal had regard to the email from Dr Zia to the GMC dated 15 March 2022 enclosing an application for the restoration of his LTP which was signed and dated 15 March 2022 ("the Application"). The Tribunal noted that Section 4 of the Application asked the following question:

"Are you aware of any proceedings, act or omission on your part which might render you liable to be referred to the GMC for investigation or consideration of your fitness to practise?"

30. The Tribunal noted that next to that question there were two boxes; one titled "Yes" and the other "No". The Tribunal also noted that the box titled "No" was selected in the Application.

31. The Tribunal noted the Application was signed and dated by Dr Zia and was attached to an email from him saying *"I have attached the application to restore my licence to practice [sic]"*. The Tribunal was therefore satisfied on the balance of probabilities that this was Dr Zia's application. The Tribunal was also satisfied on the balance of probabilities that Dr Zia had selected 'No' in response to the question set out above.

32. Accordingly, the Tribunal found paragraph 2(a) of the Allegation proved.

Paragraph 2(b)(i) to (iii)

33. The Tribunal had regard to the Application and noted that section 5 was headed “*Final Declaration*” and begins “*In making this application, I confirm:*” before proceeding to set out 8 separate statements. Those statements include the applicant confirming that they understand:

- the GMC will make enquiries it considers appropriate;
- that the applicant has read the guidance on what issues may render them liable to be referred for investigation into their fitness to practise;
- that the GMC may share registration and licensing information with UK and international regulators;
- that the applicant has read Good Medical Practice (‘GMP’) and that they had a duty to tell the GMC about any criminal or regulatory proceedings;
- that the information provided is correct and true;
- that the GMC may withhold their registration or LTP if false declarations are made or false information is provided;
- that the applicant will at the point of practise, have appropriate insurance and indemnity arrangements in place; and
- that they have not provided any medical services in the UK for which a LTP is required.

34. The Final Declaration ends with the statement “*I confirm I understand and accept the statements in the Final Declaration.*”

35. The Tribunal noted that sub paragraph 2(b) (i) to (iii) mirrored the statements contained at bullet points 2, 4 and 5 of the Final Declaration.

36. The Tribunal had regard to its findings that Dr Zia signed and dated the Application and attached it to an email confirming he was applying to restore his LTP. As such, the Tribunal was satisfied on the balance of probabilities that Dr Zia made the declarations as set out at paragraph 2(b) (i) to (iii) of the Allegation.

37. Accordingly, the Tribunal found paragraph 2 (b) of the Allegation proved in its entirety.

Paragraph 3(a)

38. The Tribunal noted that Section 4 of the Application was titled “*Your declaration of fitness to practise*” and contained a statement which provides in part:

“You must read our guide before you answer the following questions. It will help you decide what you do and don’t need to tell us about. You can find the guide at.... Just because you tell us about something doesn’t mean we won’t approve your application...” (emphasis in the original).

39. The Tribunal noted that the guide is, in essence, a Declaration Tool. It had regard to the example Declaration Tool submitted by the GMC and noted that the first question provided an option for an applicant to tell the GMC about “*An action taken against me by an organisation or a person*”. If that option is selected a further option saying “*I*” is visible and is then followed by a number of further options including “*Had action taken against me by a health or social care regulator.*” If that option is selected, further options are presented including one titled “*A health or social regulator in the UK or overseas*”. Thereafter additional options are presented including “*Applied restrictions or conditions to my registration or suspended or erased it*”. Finally, the Declaration Tool asks whether the applicant has told the GMC about the issue before and nothing has changed; whether the GMC have been informed and something has changed or that the GMC has not previously been told about the issue. In the event the applicant selects that they have either told the GMC about the issue and something has changed or has not told the GMC about the issue before, the Declaration Tool advises that the GMC should be told during the application and the applicant should answer “*Yes*” to the question on the page called “*Your declaration of fitness to practise*”.

40. The Tribunal noted in the Application, that Dr Zia confirmed he had read and understood the guide i.e. the Declaration Tool and that it had helped him answer the question accurately. The Tribunal determined that Dr Zia having ticked that he read and understood the guide (i.e. the Declaration Tool) knew that the Undertakings may have rendered him liable to be referred to the GMC for investigation or consideration of his fitness to practise.

41. Accordingly, the Tribunal found paragraph 3(a) of the Allegation proved.

Paragraph 3(b)

42. In considering paragraph 3(b) of the Allegation the Tribunal noted and had regard to the email from the GMC to AHPRA dated 25 March 2022 (“the 25 March email”), the 21 April Letter and the wording of the Undertakings. The Tribunal noted that the GMC in the 25 March email specifically asked AHPRA whether Dr Zia was aware of the investigations/proceedings against him. In response, AHPRA confirmed that Dr Zia had been notified of all notifications received by it. Further, the Tribunal noted that the 21 April Letter stated that the immediate action to protect the public health or safety “*was in the form of accepting an undertaking from Dr Zia*”. (emphasis added) Finally, the Tribunal noted the wording of the Undertakings themselves which begin “*I, Dr Farrukh Zia, will not....*”

The Tribunal also had regard to the transcript of the IOT hearing in which Dr Zia stated:

“...the other thing is the undertaking was taken last year, and I was told that to every employment I go to I have to provide that undertaking to them, which they can access online also”

“I haven’t done any surgical procedure, as advised by the undertaking.....”

43. Given these were Undertakings offered by Dr Zia, taken together with the evidence of the contents of the 21 April Letter, and Dr Zia’s submissions during the IOT Hearing, the Tribunal was satisfied on the balance of probabilities that Dr Zia knew of the existence of the Undertakings. Further, in Dr Zia’s own evidence he sought to comply with the existence of the Undertakings. As such, when selecting “*No*” to the question of whether he was aware of any proceedings, act or omission which might render him liable to be referred to the GMC for investigation or consideration of his fitness to practise, he knew that response was untrue.

44. Accordingly, the Tribunal found paragraph 3(b) of the Allegation proved.

Paragraph 3(c)

45. In considering paragraph 3(c) of the Allegation, the Tribunal had regard to its findings that Dr Zia having ticked that he had read and understood the guide (i.e. the Declaration Tool), knew that the Undertakings may have rendered him liable to be referred to the GMC for investigation or consideration of his fitness to practise. Given the Tribunal’s findings in respect of paragraphs 3(a) and 3(b) it determined that the information provided by Dr Zia in the Application was neither correct nor true. As such the Tribunal determined that one or more statements contained in the declaration was not true and therefore in signing and dating the Application, Dr Zia’s declaration was false.

46. Accordingly, the Tribunal found paragraph 3(c) of the Allegation proved.

Paragraph 4

47. In considering paragraph 4 of the Allegation, the Tribunal first considered whether on or around 13 May 2022 Dr Zia was informed that the GMC had commenced an investigation into his fitness to practise. The Tribunal noted there were two letters sent to Dr Zia on 13 May; the Investigation Officer Letter which advised him of the investigation following the information provided by AHPRA and the Assistant Registrar Letter advising him that his case had been referred to the IOT and a hearing was listed to take place on 1 June 2022.

48. The Tribunal noted that Investigation Officer letter stated:

“Thank you for your application for restoration to the medical register. Your application has been passed to me for further investigation because the Australian Health Practitioner Regulation Agency declared that there is an outstanding issue about your fitness to practise and this was not disclosed on your application.”

49. The Tribunal noted there was an email of the same date from the same Investigating Officer asking for confirmation of receipt of the email and receipt was confirmed by Dr Zia on the same date. Given that the email was dated the same date as the letter, and both the email and the letter were from the same Investigating Officer, the Tribunal was satisfied on the balance of probabilities that the Investigating Officer Letter was sent to Dr Zia and that was the document which he acknowledged safe receipt of.

50. The Tribunal further noted that the Investigation Officer Letter made reference to Dr Zia having applied for restoration to the medical register. This was not correct, Dr Zia had applied for his LTP to be restored. While the Tribunal noted the error in the Investigation Officer letter, the Tribunal was satisfied on the balance of probabilities that Dr Zia would have been aware that he was the subject of a GMC investigation.

51. The Tribunal also noted the Assistant Registrar letter to Dr Zia confirmed he had been referred to the IOT. The Assistant Registrar’s Letter also contained an index to the IOT Hearing bundle which made reference to both Medical Services Statements, the correspondence with AHPRA and the CoRS. The Tribunal also noted a Notice of Hearing from the MPTS in respect of the IOT Hearing which was sent by email on 16 May 2022 which Dr Zia acknowledged safe receipt of. The Tribunal noted that the Notice of Hearing stated that the

Tribunal would be referring to a bundle prepared by the GMC and that Dr Zia should contact the GMC if he had not received a copy of this.

52. The Tribunal was satisfied on the balance of probabilities that the Investigation Officer Letter, the Assistant Registrar letter and the Notice of Hearing from the MPTS taken individually and together was sufficient to inform Dr Zia that he was the subject of some form of GMC Investigation.

53. Having been satisfied on the balance of probabilities that Dr Zia had been informed on or around 13 May 2022 that he was the subject of a GMC investigation, the Tribunal next considered whether he was under a duty to inform Total Assist of that investigation.

54. The Tribunal first considered the Total Assist Agency Worker Handbook (“the Handbook”). The Tribunal noted that page 6 of the Handbook, in part, provides that while on assignment doctors must *“Notify Total Assist immediately if you are under investigation by your professional body or if you are suspended from your professional register immediately.”*

55. The Tribunal noted that the copy of the Handbook in evidence was neither signed nor dated by Dr Zia. The Tribunal further noted that there was a document signed by Dr Zia on 16 March 2022 in which he confirmed a number of statements including that he had accepted the contents of *“This Handbook”, “received, read, understood and agreed to be bound by the contents of the Total Assist Recruitment Locums Handbook”* and *“received, read and understood the terms and conditions of engagement of Total Assist”*.

56. The Tribunal noted that the signature page of the document signed by Dr Zia on 16 March 2022 was different to the signature page of the Handbook in evidence before the Tribunal. The Tribunal had regard to the oral evidence of Ms A in which she was unable to confirm whether the version of the handbook signed by Dr Zia was the same version that was in evidence before the Tribunal. The Tribunal also noted that there appeared to be more than one handbook and it was unclear which handbook had been signed by Dr Zia. The Tribunal accepted that Dr Zia had signed to confirm that he had read, received, understood and agreed to be bound by the contents of a handbook. However, there was no evidence before the Tribunal that the handbook Dr Zia signed was the same as the Handbook in evidence. There was also no evidence before the Tribunal that the version of the handbook signed by Dr Zia contained the same notification requirement as set out in the Handbook in evidence.

57. As such, Tribunal was not satisfied on the balance of probabilities, that there was a duty imposed on Dr Zia by Total Assist to notify it of any GMC investigation.

58. While the Tribunal considered there was insufficient evidence to satisfy it on the balance of probabilities that there was a duty imposed by Total Assist to inform it of a GMC investigation, it went on to consider whether there was any other obligation on Dr Zia to do so. The Tribunal considered paragraph 76 of Good Medical Practice dated 2013 (“the 2013 GMP”) which was the version in force in May 2022 and which provides:

‘If you are suspended by an organisation from a medical post, or have restrictions placed on your practice, you must, without delay, inform any other organisations you carry out medical work for and any patients you see independently.’

59. The Tribunal accepted Ms A’s evidence contained in her witness statement of 22 December 2022 in which she stated:

“To confirm, I have never had any conversations with Dr Zia about his licence to practise or whether there were any investigations into his fitness to practise open except when I asked him about his registration on 1 June 2022. I never have had any discussions with him about fitness to practise or his license [sic] to practise (either domestic or overseas).”

60. The Tribunal noted that on or around 13 May 2022, Dr Zia was not suspended by an organisation from a medical post. The Tribunal was satisfied that the Undertakings represented a restriction placed on his practice. However, the Tribunal noted that paragraph 4 of the Allegation specifically referred to a failure to inform Total Assist of the GMC investigation. The Tribunal could find no duty imposed on Dr Zia by the 2013 GMP to inform other bodies of a GMC investigation into his fitness to practise.

61. Accordingly, the Tribunal found paragraph 4 of the Allegation not proved.

Paragraph 5(a)

62. In considering paragraph 5(a) the Tribunal noted the decision of the Assistant Registrar dated 18 May 2022 and under a section titled “Outcome”, it provides “I direct that the licence to practise of Dr Zia granted in accordance with [Section 18A of the Medical Act 1983 (as amended)] be revoked. The Tribunal was therefore satisfied that Dr Zia’s LTP was revoked on 18 May 2022.

63. The Tribunal next considered whether Dr Zia had attended work at the Trust without a LTP on one or more dates between 23 May 2022 and 1 June 2022 as set out in Schedule 1 to the Allegation. The Tribunal had regard to the Timeslip Log Sheet from the Trust demonstrating dates Dr Zia worked at the Trust, the time he was in, the time he was out, the

hours worked and the length of the breaks he took. The Tribunal noted that the dates on the Timeslip Log Sheet corresponded with 5 of the dates in Schedule 1 to the Allegation i.e. on 23, 24, 25, 26 and 27 May 2022.

64. The Tribunal was also satisfied that Dr Zia attended work at the Trust on 1 June 2022. In making its determination the Tribunal had regard to the witness statement of Dr D dated 30 July 2023 in which he stated that he was working with Dr Zia on 1 June 2022 when he was contacted by Ms B who raised concerns about Dr Zia. Dr D's written evidence was that after the phone call with Ms B he called Dr Zia to his office and asked him to leave that shift.

65. In light of this evidence, the Tribunal was satisfied on the balance of probabilities that Dr Zia attended work at the Trust on 1 June 2022, despite his LTP having been revoked on 18 May 2022.

66. Accordingly, the Tribunal found paragraph 5(a) of the Allegation proved.

Paragraph 5(b)

67. In considering this paragraph of the Allegation, the Tribunal had regard to an email dated 30 March 2022 ("the 30 March email") which confirmed that Dr Zia had been accepted to work at the Trust on 4 and 5 June 2022. The Tribunal also had regard to the transcript of the telephone call at 11.38 between Ms A and Dr Zia on 1 June 2022. The Tribunal noted that the transcript of the telephone call confirmed that there was a conversation between Dr Zia and Ms A about working at the Trust on Saturday and Sunday. The Tribunal noted that this telephone call took place after the IOT had adjourned to deliberate what action it should take in respect of Dr Zia's registration. Dr Zia knew that the GMC had asked for his registration to be suspended and that there had been extensive discussion about the revocation of his LTP. In the telephone call between Ms A and Dr Zia there was a discussion about the timing of the shifts, whether the Trust would be prepared to provide transport to the hospital and the possibility of additional pay if the Trust did not agree to provide transport. The Tribunal noted that the Saturday and Sunday immediately following 1 June 2022 was 4 and 5 June 2022. There was no evidence of any follow up conversations between Dr Zia and Ms A on the subject of working at the Trust on 4 and 5 June.

68. The Tribunal noted there was no concrete agreement by Dr Zia to work on 4 and 5 June 2022 in the telephone call with Ms A. However, the Tribunal was satisfied on the balance of probabilities that provided certain conditions were met i.e. the provision of transport or an enhanced rate of pay, Dr Zia was prepared to and agreed to work at the Trust despite his LTP having been revoked. In any event there was evidence before the Tribunal

that he had previously agreed to work at the Trust on 4 and 5 June 2022 as early as 30 March 2022.

69. In light of the evidence before it, the Tribunal was satisfied on the balance of probabilities that having been contacted by Ms A on 1 June, Dr Zia agreed to work at the Trust on 4 and 5 June 2022.

70. Accordingly, the Tribunal found paragraph 5(b) of the Allegation proved.

Paragraph 6(a)

71. In considering this paragraph of the Allegation the Tribunal had regard to the determination of the IOT dated 1 June 2022 (“the Determination”). It noted at paragraph 15, eight separate conditions were imposed on Dr Zia’s registration. The Tribunal was therefore satisfied that the IOT imposed conditions on Dr Zia’s registration.

72. The Tribunal next considered whether Dr Zia had a duty to inform either the Trust or Total Assist of the conditions. The Tribunal noted that the eighth condition provided that Dr Zia must personally ensure a number of persons were to be notified of conditions 1-7. Those persons included but was not limited to his responsible officer; the responsible officer of organisations including any locum agency or out of hours service he is registered with or if the organisation does not have a responsible officer, any person with responsibility for overall clinical governance within the organisation. Condition 8 also required Dr Zia to inform his immediate line manager and senior clinician (where there is one) at this place of work, at least 24 hours before starting work.

73. The Tribunal was therefore satisfied that the conditions of practise imposed a duty on Dr Zia to personally notify identified individuals of the conditions.

74. The Tribunal again had regard to paragraph 76 of the 2013 GMP. The Tribunal was satisfied that the imposition of the conditions on Dr Zia’s registration by the IOT amounted to a restriction on his practise. The Tribunal was therefore satisfied that Dr Zia was required to notify both Total Assist and the Trust of the conditions pursuant to paragraph 76 as they were organisations for whom he carried out medical work.

75. In considering whether Dr Zia notified Total Assist, the Tribunal had regard to the witness statements of Ms A in which she stated that during her telephone calls with Dr Zia on 1 June 2022 he did not provide her with any information that he was under investigation. Ms A’s evidence was also that when speaking to Dr Zia on 6 June 2022 about the conditions

attached to his registration and visible on the GMC website, Dr Zia's response was that he did not know anything about it. The Tribunal noted that Ms A, in her witness statement, identified herself as a Recruitment Consultant. There was no evidence that she was either the Responsible Officer or the person with overall responsibility for clinical governance at Total Assist. Dr Zia has not provided any evidence or made a statement that he did notify of anyone at Total Assist of the conditions imposed on his registration. From the evidence before the Tribunal, it appeared that Ms A was the individual with whom Dr Zia had day to day contact at Total Assist.

76. The Tribunal accepted Ms A's evidence that Dr Zia did not inform her of the conditions placed on his registration at the IOT Hearing. The Tribunal inferred that in circumstances where Dr Zia did not inform the person with whom he had day to day contact at Total Assist and provided no evidence that he informed anyone at Total Assist of the conditions on his registration, that he failed to inform Total Assist of conditions 1-7 as required either in accordance with the conditions on his registration or paragraph 76 of GMP.

77. Accordingly, the Tribunal found paragraph 6(a) of the Allegation proved.

Paragraph 6(b)

78. In considering whether Dr Zia informed the Trust of the conditions placed on his registration at the IOT Hearing, the Tribunal had regard to the witness statement of Ms B and Dr D.

79. The Tribunal noted from Ms B's witness statement dated 15 November 2022 where she stated:

"I have never had any discussions with Dr Zia about any restrictions on his ability to practise medicine either domestically or overseas. I am not aware of anyone else that did either. Nobody at the Trust would have had that conversation with him either as far as I am aware as we as a Trust were not aware of any investigation in the background."

80. Ms B went on to say in that same statement that on 1 June 2022 she had received an email saying that a compliance check had been carried out on Dr Zia and it was found that he was not registered on the GMC website and that his record had been removed. She had a conversation with Ms C, who stated that if Dr Zia was not registered then he would be unable to work. Following this conversation, she spoke to Dr D asking him to speak to Dr Zia and she was subsequently advised by Dr D that Dr Zia had been asked to leave the hospital.

81. The Tribunal also had regard to the witness statement of Dr D dated 30 July 2023 in which he stated that in a telephone call with Ms B, he was advised:

“that there were probity concerns about Dr Zia as he was trying to pick up some shifts...and when they did a check on him, they realised that he was under GMC investigation, but he had not declared it...”. Dr D went on to say “I was surprised by what [Ms B] told me because Dr Zia seemed to be quite a good chap and I was happy he was on shift that day.”

82. While there was no evidence that Ms B was the Trust’s Responsible Officer, it accepted her uncontested evidence that Dr Zia had not told her or anyone else at the Trust about any restrictions on his practise either domestically or overseas. The Tribunal noted that Dr D was the consultant on call during Dr Zia’s shift and therefore appeared to be Dr Zia’s immediate line manager and senior clinician and thus a person who should have been notified of the conditions placed on his registration at the IOT Hearing that same day. The Tribunal accepted his evidence that the first he heard of any issues with Dr Zia’s registration was in the telephone call with Ms B.

83. In light of the evidence before the Tribunal, it was satisfied on the balance of probabilities that Dr Zia failed to inform the Trust of the conditions placed on his registration as required either by the conditions imposed on his registration or in accordance with paragraph 76 of the 2013 GMP.

84. Accordingly, the Tribunal found paragraph 6(b) of the Allegation proved.

Paragraph 7(a)

85. In considering this paragraph of the Allegation, the Tribunal had regard to the witness statement of Ms A, which stated:

‘I asked Dr Zia about his GMC registration. He said “I do not know anything about it but I will try to find out” or words to that effect. I think my call with him took place after 5pm as the GMC was closed. Dr Zia told me in another call that day that he tried to call the GMC but it was closed so he will let us know the following week. During my calls with Dr Zia on 1 June 2022 he did not provide me with any information stating he was under investigation.’

86. The Tribunal noted that on 1 June 2022, Dr Zia appeared to have had multiple telephone calls with Ms A. The Tribunal also had regard to the fact that Dr Zia on the same day had attended the IOT Hearing in which not only were conditions imposed on his registration but there were detailed discussions about the status of his LTP. The Tribunal

accepted the uncontested evidence of Ms A that Dr Zia told her that he “*did not know anything*” or words to that effect on being asked about his registration with the GMC. The Tribunal was therefore satisfied on the balance of probabilities that the GMC had discharged its burden in respect of this aspect of the Allegation.

87. Accordingly, the Tribunal found paragraph 7(a) of the Allegation proved.

Paragraph 7(b)

88. In considering this paragraph of the Allegation, the Tribunal first considered whether there was a duty on Dr Zia to notify Ms A that his LTP had been revoked. The Tribunal considered paragraph 76 of the 2013 GMP set out earlier and was satisfied that the revocation of Dr Zia’s licence amounted to a restriction on his practise which he was required to inform organisations for whom he carried out medical work.

89. The Tribunal had regard to the witness statement of Ms A and the available transcript of one of the telephone calls with Ms A on 1 June 2022. As previously set out, the Tribunal accepted that Dr Zia had multiple telephone calls with Ms A on 1 June 2022. It noted from the transcript of one of the calls, there was no reference to or discussion of the status of his LTP. The Tribunal had regard to the fact that Ms A’s evidence related to a discussion about his registration and not his LTP. The Tribunal also had regard to its findings that it accepted Ms A’s evidence that Dr Zia failed to advise Ms A or Total Assist of the conditions imposed on his registration at the IOT Hearing. Finally, the Tribunal had regard to the fact that Dr Zia had not provided any evidence nor made any submission that he had, in fact, notified Ms A in the telephone call on 1 June 2022 or any other call that his LTP had been revoked. In light of all of the circumstances the Tribunal was satisfied on the balance of probabilities that Dr Zia failed to disclose to Ms A that his LTP had been revoked.

90. Accordingly, the Tribunal found paragraph 7(b) of the Allegation proved.

Paragraph 8(a)

91. In considering this paragraph of the Allegation, the Tribunal noted it was unclear which conversation the paragraph purported to relate to. However, the Tribunal noted other aspects of the Allegation referred to conversations between Dr Zia and Ms A on 1 and 6 June 2022. The Tribunal considered this sub paragraph of the Allegation related to one or more of the conversations Dr Zia had with Ms A on 1 June 2022.

92. The Tribunal had regard to the fact that Dr Zia’s LTP was revoked by virtue of a decision of an Assistant Registrar on 18 May 2022. The Tribunal noted that the Assistant Registrar’s decision provided that the doctor should be informed of the decision. The Tribunal also noted that on 19 May 2022 there was a screenshot of the GMC’s Siebel system stating that an outbound email was sent to Dr Zia’s email address attaching a copy of the Assistant Registrar’s decision to revoke his LTP. The screenshot also has the status as “Done”. While there was no evidence of the time the email was sent, the Tribunal was satisfied on the balance of probabilities that Dr Zia was notified on 19 May 2022 that his LTP had been revoked.

93. Further, the Tribunal noted Dr Zia’s attendance at the IOT Hearing and the transcript provides evidence of a number of discussions regarding the status of his LTP and the fact that it had been revoked. While the Tribunal noted that Dr Zia appeared to have connection issues during part of the IOT Hearing, he confirmed that he had heard the discussions and actively participated in the hearing. As such, the Tribunal was further satisfied that on 1 June 2022, Dr Zia was fully aware as to the status of his LTP. The Tribunal noted that his first telephone call with Ms A on 1 June 2022 was at 11.38 after the discussions about the status of his LTP had taken place and where it had been confirmed that it had been revoked.

94. Taken individually and together, the Tribunal was satisfied that on 1 June 2022 Dr Zia knew that his LTP had been revoked.

95. Accordingly, the Tribunal found paragraph 8(a) of the Allegation proved.

Paragraph 8(b)

96. In considering this paragraph of the Allegation, the Tribunal had regard to Dr Zia’s previous registration history with the GMC and his history of working in the UK between 2001 and 2004, in 2006 and again between 2008 and 2011. It also had regard to the fact that Dr Zia had made the appropriate application to restore his LTP. As such, the Tribunal was satisfied on the balance of probabilities that Dr Zia knew that he needed to be registered with a LTP in order to work as a doctor in the UK.

97. In light of the Tribunal’s findings that on 1 June 2022 Dr Zia knew that his LTP had been revoked, the Tribunal was satisfied on the balance of probabilities that Dr Zia knew that he was not eligible to work as a doctor in the UK.

98. Accordingly, the Tribunal found paragraph 8(b) of the Allegation proved.

Paragraph 9(a)(i) to (iii)

99. In considering this paragraph of the Allegation, the Tribunal listened to the telephone call between Dr Zia and Ms A at 09.22 on 6 June 2022 and had regard to the transcript of that same call. In particular, the Tribunal noted the following exchanges:

“[Ms A].....I was looking at the GMC, our dashboard earlier, it seems that they removed the GMC licence to practise on 19 May so you would have been aware about this, isn't it?”

FZ *No, I am just reading that now?*

[Ms A] *Yes*

FZ *I didn't receive any correspondence for that*

[Ms A] *I mean, can you just email it to me, please, I mean whatever you can because we need to send it to [the Trust]....*

FZ *I mean, I haven't received any email from them.”*

100. The Tribunal was satisfied that the transcript accurately reflected the content of the telephone call. It was also satisfied that both the telephone call and the transcript of it were clear in respect of the words uttered by Dr Zia when speaking to Ms A at 09.22 on 6 June 2022. The Tribunal was therefore satisfied that the GMC had discharged its burden in respect of this aspect of the Allegation.

101. Accordingly, the Tribunal found paragraph 9(a) of the Allegation proved in its entirety.

Paragraph 9(b)

102. In considering this aspect of the Allegation the Tribunal again had regard to the telephone call between Dr Zia and Ms A at 09.22 on 6 June 2022 and the transcript of that call. In particular, the Tribunal had regard to the following exchange:

“[Ms A] Yes, but I mean whatever statement you can give as well because, I mean, 1 June they removed it, obviously it didn't – so that's the reason we found out, only on 1 June because everything was taken off on the GMC, but when you-you know from the GMC attachment that I sent you it says 19 May they removed the licence to practise so you should have not worked from 19 May technically.”

FZ *Yes, because I didn't receive any correspondence from them so I didn't know."*

103. The Tribunal's view of the telephone call and the transcript at set out at 9(a) is equally applicable to paragraph 9(b). The Tribunal is therefore satisfied that the GMC had discharged its burden in respect of this paragraph of the Allegation.

104. Accordingly, the Tribunal found paragraph 9(b) of the Allegation proved.

Paragraph 9(c)

105. In considering this aspect of the Allegation, the Tribunal had regard to the email sent from Dr Zia's email address to Ms A on 6 June 2022 at 09.27, which read,

'Hi [Ms A]

Just found out today that I have not been having license to practice since 19/05/2022.

Just got that information on GMC website today. Spoke to GMC but my application advisor is on annual leave so going to ring them tomorrow.

Regards

Farrukh Zia.'

106. In light of the evidence before the Tribunal, it was satisfied that the GMC had discharged its burden in respect of this aspect of the Allegation.

107. Accordingly, the Tribunal found paragraph 9(c) of the Allegation proved.

Paragraph 10(a)

108. In considering whether Dr Zia knew that the information he provided to Ms A was not true, the Tribunal considered the decision of the Assistant Registrar to revoke his licence dated 18 May 2022, the email communicating that decision to Dr Zia on 19 May 2022 as well as the transcript of the IOT Hearing. In particular, the Tribunal noted the following extracts from the transcript of the IOT Hearing:

By GMC Counsel:

“By way of background, it should be noted that until recently Dr Zia held a temporary licence to practise which was granted to him during the Covid-19 pandemic, pursuant to section 18A of the Medical Act 1983..... ”

“It will be noted thereafter that on 18 May 2022, ...the GMC Assistant Registrar has made a decision to effectively revoke the doctor’s licence to practise....”

“The doctor is currently registered according to the GMC register but doesn’t have a licence to practise. However, he has made an application for a full licence. It is currently pending.”

“...from 19 May 2022 to present, he doctor is currently registered without a licence to practise. His full register can be found on the GMC register....until 3 November 2013 he was registered with a licence to practise, and from 3 November 2013 to 31 March 2020 registered without a licence to practise and then from 31 March 2020 and 19 May 2022 registered with a licence to practise. That is consistent with the decision having been made on 18 May 2022.”

By the Medical Member:

“I just wanted to clarify, the doctor’s licence to practise has currently been revoked. Does that have an impact on the current situation?”

109. The Tribunal noted that in the IOT Hearing there was extensive discussion about the status of Dr Zia’s LTP and his registration status. As previously set out the Tribunal noted that Dr Zia appeared to have had some connection issues during the IOT Hearing but it was canvassed with him whether he had heard all that had been said by GMC Counsel and he confirmed that he had.

110. The Tribunal noted that the Assistant Registrar’s decision, the communication of it and the discussion of the status of Dr Zia’s LTP at the IOT Hearing all took place prior to his conversation with Ms A on 6 June 2022. As such, the Tribunal determined that Dr Zia knew that the information provided by him to Ms A during the call on 6 June 2022 was untrue.

111. Accordingly, the Tribunal found paragraph 10(a) of the Allegation proved.

Paragraph 10(b)

112. The Tribunal had regard to its findings that the Assistant Registrar’s decision to revoke Dr Zia’s LTP had been made and communicated to him by 19 May 2022. As such, the Tribunal was satisfied on the balance of probabilities that when Dr Zia told Ms A that he had not received any correspondence in respect of the revocation of his LTP, he knew that this was untrue.

113. Accordingly, the Tribunal found paragraph 10(b) of the Allegation proved.

Paragraph 10(c)

114. In considering this paragraph of the Allegation, the Tribunal had regard to the evidence in support of its findings that Dr Zia knew on 19 May 2022 and on 1 June 2022 that his LTP had been revoked. As such, the Tribunal was satisfied on the balance of probabilities that Dr Zia knew it was untrue when he told Ms A that he had only found out on 6 June 2022 that his LTP had been revoked.

115. Accordingly, the Tribunal found paragraph 10(c) of the Allegation proved.

Paragraph 11(a)

116. In relation to this aspect of the Allegation, the Tribunal accepted the advice of the Legally Qualified Chair that it should apply the test for dishonesty set out in *Ivey v Genting Casinos*. The Tribunal first considered Dr Zia’s state of mind as to his knowledge or belief as to the facts. It took into account the evidence in support of its findings that Dr Zia selected “No” in response to the question of whether he was aware of any proceedings, acts or omissions which may render him liable to be referred to the GMC for an investigation or consideration of his fitness to practise. It also had regard to the evidence before it and its findings that the information provided in the Application was neither correct nor true.

117. In light of the Tribunal’s earlier findings, it determined that Dr Zia could not have had a genuinely held belief that he was unaware of the Undertakings. Further, the Tribunal determined that Dr Zia could not have had a genuinely held belief that information contained in the Application was true.

118. Having established the state of Dr Zia’s knowledge in respect of the Undertakings and the Application, the Tribunal went on to consider whether by the standards of ordinary, decent people, Dr Zia’s conduct was dishonest.

119. The Tribunal determined that Dr Zia’s conduct, knowing of the Undertakings and failing to declare them in the course of the Application would be regarded as dishonest by the standards of ordinary decent people. The Tribunal also determined that Dr Zia, in selecting “No” to the question of whether he was aware of anything which would render him liable for investigation by the GMC would also be regarded as dishonest by the standards of ordinary decent people.

120. Accordingly, the Tribunal found paragraph 11(a) proved.

Paragraph 11(b)

121. In assessing the state of Dr Zia’s knowledge on 1 June 2022, the Tribunal had regard to its earlier findings that on 1 June 2022 he knew his LTP had been revoked but failed to disclose this. It also had regard to its findings that Dr Zia told Ms A that he knew nothing about the status of his registration. The Tribunal reminded itself that at the time of at least one of these conversations Dr Zia was in the midst of, and participating in the IOT Hearing and that there had been extensive discussions about the revocation of his LTP. The Tribunal noted that those discussions must have taken place by 11.06 when the Tribunal adjourned to determine what, if any, action should be taken in respect of Dr Zia’s registration. The Tribunal further noted that the first telephone call between Dr Zia and Ms A did not take place until 11.38. It had regard to the fact that the IOT hearing had concluded by 12.37 when Dr Zia had been notified that conditions were being imposed on his registration. The Tribunal also had regard to its earlier findings that Dr Zia knew that he needed to be registered and have a LTP in order to work as a doctor in the UK. Given that Dr Zia knew on 19 May 2022 that his LTP had been revoked and that by 12.37 on 1 June 2022 conditions were now attached to his registration, the Tribunal determined he could not have had a genuinely held belief that the information provided to Ms A during the course of any telephone call discussing his registration was true.

122. The Tribunal went on to consider whether by the standards of ordinary decent people, Dr Zia’s conduct in this respect would be regarded as dishonest. The Tribunal determined that Dr Zia, in telling Ms A that he did not know anything affecting the status of his registration, despite being in a hearing that day where he knew conditions had been imposed on it, would be regarded as dishonest by the standards of ordinary decent people.

123. Accordingly, the Tribunal found paragraph 11(b) of the Allegation proved.

Paragraph 11(c)

124. The Tribunal first considered the state of Dr Zia’s mind and his knowledge or belief as to the facts. It had regard to its findings that on 6 June 2022, Dr Zia knew that his LTP had been revoked given the correspondence of the Assistant Registrar, the IOT hearing some 5 days earlier and the numerous references to the revocation of his LTP. The Tribunal also had regard to its rationale in respect of its finding paragraph 10 of the Allegation proved. The Tribunal determined that Dr Zia, could not, on 6 June 2022, have had a genuinely held belief that he continued to have a LTP.

125. Having determined that Dr Zia could not have had a genuinely held belief that he continued to have a LTP, the Tribunal considered whether this would be considered dishonest by the standards of ordinary, decent people. The Tribunal determined that Dr Zia, knowing he did not have a LTP on 19 May 2022 and 1 June 2022, but telling Ms A that he knew nothing of this until 6 June 2022, would be regarded as dishonest by the standards of ordinary decent people.

126. Accordingly, the Tribunal found paragraph 11(c) found proved.

The Tribunal’s Overall Determination on the Facts

127. The Tribunal has determined the facts as follows:

1. On or around 1 November 2021 your registration with the Australian Health Practitioner Regulation Agency was made subject to undertakings (‘the AHPRA Undertakings’).

Determined and found proved.

2. On 15 March 2022 you submitted an application for restoration of your full UK licence to practise (‘the Application’), in which you:

a. selected ‘No’ in response to the question ‘Are you aware of any proceedings, act or omission on your part which might render you liable to be referred to the GMC for investigation or consideration of your fitness to practise?’;

Determined and found proved.

b. made a declaration that:

i. you had read the guidance on what issues may render you liable to be referred to the General Medical Practice ('the GMC') for investigation or consideration of your fitness to practise;

Determined and found proved.

ii. you had read Good medical practice and understood that you had a duty to tell the GMC about any criminal or regulatory proceedings;

Determined and found proved.

iii. the information provided within the Application was correct and true.

Determined and found proved.

3. You knew that:

a. the AHPRA Undertakings may render you liable to be referred to the GMC for investigation or consideration of your fitness to practise;

Determined and found proved.

b. your response as set out in paragraph 2.a. was untrue;

Determined and found proved.

c. your declaration as set out in paragraph 2.b.iii. was false.

Determined and found proved.

4. On or around 13 May 2022 you were informed that the GMC had commenced an investigation into your fitness to practise ('the GMC Investigation') and you failed to inform Total Assist of the GMC Investigation.

Not proved

5. On or around 18 May 2022 your temporary UK licence to practise was revoked and:

a. you attended work at York and Scarborough Teaching Hospitals NHS Foundation Trust ('the Trust') without a licence to practise on one or more of the dates as set out in Schedule 1;

Determined and found proved.

b. on 1 June 2022 you were contacted by Ms A of Total Assist and you agreed to work at the Trust on 4 and/or 5 June 2022.

Determined and found proved.

6. On 1 June 2022 the Interim Orders Tribunal ('IOT') of the Medical Practitioners Tribunal Services imposed an interim order of conditions ('the Interim Order') on your registration and you failed to provide notification of conditions 1 – 7 to:

a. Total Assist;

Determined and found proved.

b. the Trust.

Determined and found proved.

7. On 1 June 2022 during a call with Ms A, in response to being asked about your registration and whether Total Assist as an agency needed to know anything as she could not check your status you:

a. told her 'you did not know anything' or words to that effect;

Determined and found proved.

b. failed to disclose that your temporary UK licence to practise had been revoked.

Determined and found proved.

8. At the time of your conversation with Ms A you knew that:

a. your temporary UK licence to practise had been revoked;

Determined and found proved.

b. you were not eligible to work as a doctor in the UK.

Determined and found proved.

9. On 6 June 2022:

a. during a call with Ms A on being told that it appeared your licence to practise had been removed on 19 May 2022 and you would have been aware of it you stated:

i. 'No I'm just reading that now';

Determined and found proved.

ii. 'I didn't receive any correspondence for that';

Determined and found proved.

iii. 'I mean, I haven't received any email from them';

Determined and found proved.

b. on being told that the attachment Ms A had sent to you stated that your licence to practise had been removed and you should not have worked from 19 May 2022 you stated 'Yes, because I didn't receive any correspondence from them so I didn't know';

Determined and found proved.

c. in an email to Ms A you stated 'Just found out today that I have not been having license to practice since 19/05/2022. Just got that information on GMC website today'.

Determined and found proved.

10. You knew that the information you had provided to Ms A as set out at the following paragraphs was not true:

a. paragraph 9.a.;

Determined and found proved.

b. paragraph 9.b.;

Determined and found proved.

c. paragraph 9.c.

Determined and found proved.

11. Your conduct at:

a. paragraphs 2.a. and 2.b.iii. was dishonest by reason of paragraph 3;

Determined and found proved.

b. paragraph 7.a. was dishonest by reason of paragraph 8;

Determined and found proved.

c. paragraph 9 was dishonest by reason of paragraph 10.

Determined and found proved.

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

To be determined

Determination on Impairment - 13/09/2024

128. 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 Zia's fitness to practise is impaired by reason of misconduct.

The Outcome of Applications made during the Impairment Stage

129. The Tribunal considered an application by Ms Bucklow for the remainder of the hearing to be held virtually. She submitted that the hearing was principally listed as an in person hearing as a result of the nature of the evidence, in particular the need for the Tribunal to hear the telephone calls between Dr Zia and Ms A. Ms Bucklow further stated that the GMC had requested an in person hearing due to Dr Zia's indication that he would be present at the hearing and the evidence due to be given by the GMC's witnesses. Ms Bucklow stated that Dr Zia, having voluntarily absented himself from the hearing and the Tribunal having now concluded the facts stage of the hearing, could conduct the remainder of the hearing virtually.

130. Ms Bucklow submitted that if the Tribunal did not agree with her on the remainder of the hearing being held virtually, then there was an alternative application for her to attend virtually on Friday, 13 September 2022 to accommodate an appointment she needed to attend.

131. The Tribunal had regard to Ms Bucklow's submissions but noted that at the outset it had been determined that the entirety of the hearing should be in person. It considered that when determining the venue of the hearing, it was open to the decision makers to decide that only part of the hearing should be in person. The Tribunal noted that save for Dr Zia - who was in any event only due to attend the hearing virtually - not attending, there had been no changes to the circumstances of the case. While the Tribunal had now made its determination as to the facts, that was always a circumstance that would materialise. The

Tribunal determined that this was not a fact which justified the remainder of the hearing being held virtually. Accordingly, the Tribunal refused the application for the remainder of the hearing to be held virtually. However, the Tribunal granted the application for Ms Bucklow to attend the hearing virtually on Friday, 13 September 2024 on the basis that it was fair and just to do so.

The Evidence

132. The Tribunal took into account all the evidence received during the facts stage of the hearing. No further evidence was adduced at this stage of the proceedings.

Submissions

On behalf of the GMC

133. On behalf of the GMC, Ms Bucklow reminded the Tribunal that its determination on misconduct and impairment was a matter of judgement, not proof. She submitted there was a spectrum of dishonesty and that Dr Zia's dishonesty was significant, related directly to his professional practice and lay at the higher end of the spectrum. She stated that the implications of his dishonesty were significant and included having an impact on patient safety. Ms Bucklow submitted that Dr Zia in misleading his regulator, concealing his interim conditions from the Trust and Total Assist meant that each of the bodies was unable to assess whether he could be safely employed. She further stated that his dishonesty impacted his colleagues at the Trust leaving them unaware how to co-ordinate patient care.

134. Ms Bucklow reminded the Tribunal to have regard to the statutory overarching objective and the test set out by Dame Janet Smith in the Fifth Shipman report (set out in greater detail at paragraph 12 below) when making its determination on impairment. She stated that Dr Zia took deliberate steps to conceal fitness to practise concerns from his regulator when making the Application and then sought to conceal the conditions imposed on his registration from those employing him. Ms Bucklow contended that Dr Zia continuing to work when he knew his LTP had been revoked, taking a call from Total Assist whilst at the IOT Hearing and agreeing to work when he was aware he did not have a LTP, and that his registration was imminently about to be restricted, all demonstrated a total disregard for his regulator and the MPTS.

135. Ms Bucklow submitted that Dr Zia's conduct, including his aggravated dishonesty, undermined public confidence in the system of regulation and the profession more generally.

She stated that his conduct represented a significant departure from GMP and breached paragraphs 65, 71 and 73 of 2013 GMP which provides as follows:

“65 You must make sure that your conduct justifies your patient’s trust in you and the public’s trust in the profession.

71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents.²² You must make sure that any documents you write or sign are not false or misleading.

73 You must cooperate with formal enquiries and complaints procedures and must offer all relevant information whilst following the guidance in confidentiality. “

136. Ms Bucklow submitted to the Tribunal that there was no evidence of insight or remediation on Dr Zia’s part. She stated that his conduct was repeated in nature and showed a pattern of dishonesty. She submitted that not only did his conduct amount to misconduct which was serious, but that a finding of current impairment should be made.

The Relevant Legal Principles

137. 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 its judgement alone. The Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct, and that the misconduct was serious, and then whether the finding of that misconduct which was serious, could lead to a finding of impairment.

138. The Tribunal had reminded itself that it must determine whether Dr Zia’s fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

139. The Tribunal reminded itself of the statutory overarching objective which is 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 the profession. The Tribunal also had regard to the test set out by Dame Janet Smith in the Fifth Shipman Report, as adopted in the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin* and asks whether the doctor:

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

140. The Tribunal also had regard to the case of *Cohen v GMC [2008] EWHC 581* where the court said *“it must be highly relevant in determining if a doctor’s fitness to practise is impaired that first his or her conduct which led to the charge is easily remediable, second it has been remedied and third that it is highly unlikely to be repeated.”*

The Tribunal’s Determination on Impairment

Misconduct

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

142. The Tribunal had regard to the facts found proved including that Dr Zia failed to declare the Undertakings when applying to restore his LTP. It also had regard to its findings that Dr Zia knew he needed a LTP in order to work as a doctor in the UK, knew on 19 May 2022 that his LTP had been revoked, yet chose to work in the Accident and Emergency Department at the Trust on at least five separate occasions after its revocation. The Tribunal reminded itself that Dr Zia did not disclose to Total Assist or the Trust that his LTP had been revoked or that there were conditions attached to his registration. The Tribunal also had regard to Dr Zia’s attempt to arrange further work at the Trust with additional benefits. The Tribunal also reminded itself of its findings that Dr Zia was dishonest with Total Assist in a number of telephone calls that took place on 1 and 6 June 2022.

143. The Tribunal accepted Ms Bucklow’s submission that paragraphs 65, 71 and 73 of 2013 GMP were engaged. It also considered that paragraph 1 of 2013 GMP set out below was also engaged:

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

144. The Tribunal noted that Dr Zia’s dishonesty commenced when he failed to declare the Undertakings he gave to AHPRA when making the Application. It noted that the Undertakings were offered by Dr Zia and accepted by AHPRA as a result of clinical concerns raised by a number of patients in Australia and that there were at least nine matters being actively considered by AHPRA. The Tribunal had regard to the fact that at least six other matters had been considered and closed with no further action and that according to the CoRS, in the preceding 10 years Dr Zia had been the subject of other disciplinary action by the Australian healthcare regulator.

145. The Tribunal is of the view that the system of registration is the bedrock of patient safety. It ensures that those providing medical services and treatment to the public have the appropriate knowledge and skills to be able to do so. The Tribunal determined that Dr Zia’s conduct in failing to declare the Undertakings when he knew he needed to do so, significantly undermined the GMC’s regulatory process. Further, it considered that Dr Zia’s conduct undermined the trust members of the public placed in doctors who treat them. It further determined that Dr Zia’s conduct in deliberately omitting information from his application breached paragraph 71 of 2013 GMP.

146. The Tribunal concluded that Dr Zia’s conduct in this respect represented a significant departure from GMP, fell far short of the standards expected of a doctor and would be considered deplorable by fellow practitioners.

147. The Tribunal accepted that there was no allegation in respect of Dr Zia’s clinical competence before it. It had regard to the fact that there was no evidence that patients had come to harm as a result of his work at the Trust. However, the Tribunal noted that Dr Zia worked in the Accident and Emergency Department at the Trust where he was likely to face patients requiring treatment of a type he had undertaken not to provide in Australia. Albeit no such restrictions existed in the UK, his failure to declare the Undertakings meant the GMC, the Trust and Total Assist were unable to assess whether there was a risk to patient safety. Consequently, the Tribunal determined that Dr Zia placed patients at an unwarranted risk of harm.

148. The Tribunal found that this aspect of Dr Zia’s conduct represented a significant departure from GMP and breached paragraphs 1 and 65 of 2013 GMP. It also found that fellow practitioners would consider this aspect of Dr Zia’s conduct deplorable.

149. The Tribunal considered its findings that Dr Zia knew he needed to have a LTP but nonetheless attended work at the Trust on at least five separate occasions between 23 and 27 May 2022 after he knew on 19 May 2022 that his LTP had been revoked. The Tribunal found this aspect of Dr Zia’s conduct particularly troubling. It determined that this conduct not only breached paragraphs 1 and 65 of 2013 GMP, but represented a significant departure from those principles and that such conduct would be regarded as deplorable by fellow practitioners. The Tribunal was also of the view that fellow practitioners and the public would be horrified to learn of a doctor with no LTP working in any medical setting, especially an acute setting such as A & E.

150. The Tribunal also had regard to the fact that on 1 June 2022, Dr Zia knowing that his LTP had been revoked and that conditions were now attached to his registration, attended work at the Trust without disclosing either of these facts to the Trust or Total Assist. Further the Tribunal reminded itself that Dr Zia, in the midst of the IOT Hearing, during an adjournment for that Tribunal to consider whether his registration should be suspended as requested by the GMC, not only negotiated to carry out further work for the Trust but sought to agree further benefits for attending work. In addition to seeking additional benefits, Dr Zia attended the Trust to work less than three hours after the conclusion of the IOT Hearing and did not disclose his conditions to anyone.

151. The Tribunal went on to consider Dr Zia’s conduct when confronted by Total Assist about the status of his LTP and registration. The Tribunal noted that Dr Zia’s dishonesty persisted in multiple telephone calls on 1 and 6 June 2022. The Tribunal concluded that this aspect of his conduct breached paragraphs 1 and 65 of 2013 GMP, fell far short of the standards expected of doctors and would be regarded as deplorable by fellow practitioners.

152. In addition to considering the individual aspects of Dr Zia’s conduct, the Tribunal had regard to its totality. The Tribunal noted that Dr Zia’s dishonesty could not be regarded as a single episode of dishonesty. The evidence demonstrated that this dishonesty commenced on the day he submitted the Application, persisted during his time working at the Trust and continued thereafter until 6 June 2022. It determined that his conduct not only demonstrated a blatant disregard for the GMC as his regulator, the system of registration and regulation but also placed patients at an unwarranted risk of harm. The Tribunal concluded that his conduct individually and collectively represented a significant departure of the principles set out in 2013 GMP and fell far below the standards expected of a doctor. Further,

the Tribunal concluded that Dr Zia's conduct individually and collectively would be regarded as deplorable by fellow practitioners.

153. Accordingly, the Tribunal found that Dr Zia's conduct amounted to misconduct which was serious.

Impairment by reason of misconduct

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

155. In determining impairment, the Tribunal considered whether the misconduct could be remedied while noting that matters of dishonesty are difficult to remediate. It looked for evidence of insight and remediation in order to assess the likelihood of repetition and balance those against the three limbs of the statutory overarching objective.

156. The Tribunal noted its findings that Dr Zia had voluntarily absented himself from these proceedings. It noted that he had provided no written evidence, made no submissions and provided no explanation for the conduct which gave rise to the Allegation. The Tribunal had regard to the fact that there had been very limited engagement by Dr Zia with these proceedings. It noted that there had been no response to the Rule 7 letter and he had failed to attend pre-hearing conferences. The Tribunal also noted that he had failed to engage with this hearing despite being notified of the Tribunal's determination that the hearing would proceed in his absence and its determination of the facts.

157. While the Tribunal noted there had been limited engagement by Dr Zia, it had regard to the fact that he had engaged in email correspondence with the GMC prior to the hearing and had indicated he would provide a statement to be considered by the Tribunal but he did not do so. The Tribunal was satisfied that in the course of his limited engagement, Dr Zia had an opportunity to provide evidence in support of his case, an explanation of his conduct, or an apology for his actions, but appeared to have chosen not to do so.

158. The Tribunal determined that in such circumstances there was no evidence of an acknowledgment, appreciation of, or apology for, his failings. As such, the Tribunal concluded that there was no evidence that Dr Zia had any insight into his conduct. The Tribunal had regard to the fact that dishonesty is widely regarded as an attitudinal problem which was difficult to remediate. However, it accepted Ms Bucklow's submissions that steps can be taken to remediate dishonesty such as by reflecting on the conduct itself, attending either

free or paid courses or putting in place steps to prevent a recurrence of the conduct. The Tribunal noted that there was no evidence before it that Dr Zia had taken any steps to reflect on the individual aspects or the totality of his conduct. Further, there was no evidence that Dr Zia had taken any other steps to try and remediate his conduct or put in place any steps to prevent him repeating his behaviour including his proven dishonesty.

159. In the absence of any insight by Dr Zia and no evidence of remediation, the Tribunal concluded that there was a significant risk of repetition.

160. The Tribunal applied the test set out by Dame Janet Smith, adopted in Grant, and set out at paragraph 12 above. It concluded that all four limbs of the test were engaged. The Tribunal had regard to its findings that Dr Zia, in attending to work at the Trust's A & E department knowing he had no LTP, placed patients at an unwarranted risk of harm. The Tribunal also had regard to its findings in respect of Dr Zia's failure to declare the Undertakings, his attempts to undermine the system of registration and regulation and his failure to notify the Trust or Total Assist of the revocation of his LTP or the conditions attached to his registration. In addition, the Tribunal had regard to Dr Zia's conduct in not only seeking to work despite the revocation of his LTP and the conditions of his registration, but also seeking enhanced benefits to do so with such discussions taking place during the course of the IOT Hearing. The Tribunal reminded itself of the nature and extent of Dr Zia's dishonesty which commenced on his Application and which persisted even after it became clear to him that both the Trust and Total Assist had concerns as to his status as a doctor in the UK. Finally, the Tribunal reminded itself that less than three hours after the conclusion of the IOT Hearing, Dr Zia presented himself to work in the Trust's A & E Department failing to declare that he had no LTP and that conditions were now attached to his registration.

161. The Tribunal was satisfied that Dr Zia's conduct individually and taken together was dishonest, brought the medical profession into disrepute and breached one or more of the fundamental tenets of the medical profession.

162. In considering whether Dr Zia's fitness to practise is currently impaired, the Tribunal balanced its findings in respect of insight, remediation and the risk of repetition against the statutory overarching objective. The Tribunal noted there was no evidence before it that actual harm had been caused to any patients. However, the Tribunal considered that Dr Zia's actions in working without a LTP and while there were conditions attached to his registration without notifying anyone of them undermined his duty to protect the health, safety and wellbeing of the public. The Tribunal further determined that Dr Zia's proven dishonesty would damage public confidence in the medical profession if a finding of impairment were not made. The Tribunal concluded that a member of the public in full knowledge of the facts

would be horrified to learn of a doctor acting in the way Dr Zia did. The Tribunal further concluded that given its findings of fact and serious misconduct, a finding of impairment of fitness to practise was necessary to promote and maintain proper standards of conduct for the medical profession.

163. The Tribunal therefore determined that Dr Zia’s fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 17/09/2024

164. Having determined that Dr Zia’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

165. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction. No further evidence was adduced at this stage of the proceedings.

Submissions

Submissions on behalf of the GMC

166. Ms Bucklow submitted that the appropriate sanction was one of erasure. She referred the Tribunal to its determination on impairment as well as a number of paragraphs in the Sanctions Guidance (February 2024) (the ‘SG’).

167. Ms Bucklow submitted that all three limbs of the overarching objective were engaged needed to be kept in mind. She reminded the Tribunal that the sanction was not intended to be punitive but recognised that it may have this effect. Ms Bucklow further reminded the Tribunal of Dr Zia’s conduct giving rise to these proceedings including attempting to circumvent the regulatory process with his dishonesty, failing to comply with conditions imposed by the IOT and attending locum shifts after his LTP had been revoked.

168. Ms Bucklow stated that taking no action in this case would undermine public confidence, would undermine the regulatory system, would place patient safety at risk and that conditions would not be workable. She submitted that Dr Zia’s attending locum shifts

after his LTP had been revoked and failing to comply with the conditions imposed by the IOT was evidence that he could not be trusted to comply with any conditions. She further submitted there was no evidence that he would engage with retraining or supervision.

169. Ms Bucklow submitted that suspension was also not appropriate. She reminded the Tribunal that suspension was appropriate in cases where the conduct falls just short of being fundamentally incompatible with continued registration. She stated that there had been no acknowledgement of fault in Dr Zia's case, he had failed to respond to the Rule 7 letter and had failed to engage with these proceedings. She further stated that there was no evidence of how he would prevent a recurrence of his conduct. She said that the lack of willingness to engage meant there was no evidence that Dr Zia would undertake steps to help restore his fitness to practise if he was only suspended from the register.

170. Ms Bucklow submitted that the only sanction open to the Tribunal was one of erasure. She stated that Dr Zia had made serious and repeated departures from 2013 GMP and that his conduct had put patient safety at risk, undermined public confidence in the profession and the maintenance of proper standards and conduct. She stated that the allegations found proved were serious and included dishonesty which has long been regarded as being at the top end of misconduct. She reminded the Tribunal that one-off findings of dishonesty could justify the removal of a doctor from the profession.

171. Ms Bucklow submitted that Dr Zia's dishonesty was at the higher end of misconduct as it related directly to his professional practice and included attempts to conceal concerns about his fitness to practise. She stated that he put his own needs and wishes above the safety of patients as well as the system in place to protect them. She stated there were a number of aggravating features to his conduct including misleading his regulator when seeking to restore his licence, attending locum shifts in a front line acute setting without a LTP and the concealment of the interim conditions from his employers and contractors. She stated that his dishonesty undermined the regulatory system as a whole and that he had demonstrated a propensity to be dishonest.

172. She stated that his repeated and serious departures from the principles in 2013 GMP, his deliberate disregard for patient safety, his persistent and repeated acts of dishonesty and lack of insight, all indicated that a sanction of erasure was necessary to meet the overarching objective. She accepted that a sanction of erasure would prevent Dr Zia from working as a doctor in the UK but that this was the minimum sanction required.

The Tribunal's Determination on Sanction

173. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken account of the SG and reminded itself that the purpose of the sanctions is not to be punitive, but to protect patients and the wider public interest, although any sanction imposed may have a punitive effect.

174. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Zia's interests with the public interest. It considered and had regard to the overarching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promoting and maintaining of proper professional standards and conduct for members of the profession.

175. The Tribunal also had regard to its findings of misconduct and impairment as well as the submissions on behalf of the GMC. It first identified what it considered to be the mitigating and aggravating factors in this case.

Aggravating and mitigating factors

176. The Tribunal determined that there was a single mitigating factor in this case which was that there was no evidence before it of actual harm to patients.

177. The Tribunal identified a number of aggravating factors in this case. These included that there was no evidence of insight or remediation by Dr Zia; the identified high risk of repetition and his failure to engage with these proceedings, despite being provided with each of the Tribunal's determinations. The Tribunal also considered the serious and repeated breaches of 2013 GMP; Dr Zia's blatant and persistent disregard for the system of registration and regulation, including during and after the IOT Hearing, as further aggravating factors. The Tribunal also determined that Dr Zia put patients at risk of harm and further placed the Trust and the locum agency at risk of harm and reputational damage. The Tribunal considered the persistent, sustained, repeated nature of Dr Zia's dishonesty as well as his attempts to cover it up as an additional aggravating feature of this case. The Tribunal was satisfied that Dr Zia's actions demonstrated a propensity to be dishonest and given its nature and duration, represented an attitudinal problem. The Tribunal determined that his conduct was deliberate and protracted and grew increasingly serious with the passage of time.

178. The Tribunal balanced these factors throughout its deliberations and went on to consider each sanction in ascending order of severity, starting with the least restrictive.

No Action

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

180. The Tribunal determined that there were no exceptional circumstances in this case which would or could justify taking no action. It determined that, given the seriousness of the misconduct and the findings of impaired fitness to practise, taking no action would not be sufficient, proportionate or in the public interest.

Conditions

181. The Tribunal next considered whether to impose conditions on Dr Zia's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable. The Tribunal noted that conditions may be appropriate where a doctor has insight into their misconduct, that a doctor is likely to comply with conditions and is also likely to respond positively to remediation or retraining.

182. The Tribunal had regard to its findings that there was no evidence that Dr Zia had any insight into his misconduct and had provided no evidence of remediation. The Tribunal also accepted Ms Bucklow's submissions that there was no evidence that Dr Zia would comply with any conditions imposed on his registration. The Tribunal considered that the evidence before it demonstrated the contrary, that Dr Zia would not comply with conditions on his registration. Accordingly, the Tribunal determined there was no evidence that Dr Zia would respond positively to remediation or retraining.

183. The Tribunal reminded itself that the basis of these proceedings included Dr Zia failing to declare the Undertakings, continuing to work despite his LTP having been revoked and not only failing to declare the conditions on his registration but attending work within hours of those conditions being imposed. The Tribunal also had regard to the fact that it is difficult to impose conditions to address dishonesty. In any event, given the persistent nature of Dr Zia's dishonesty, the Tribunal was of the view that no appropriate, workable or measurable conditions could be put in place to address what the Tribunal concluded was an attitudinal problem. Further, the Tribunal considered that given the seriousness of the misconduct and the proven dishonesty, the imposition of conditions would not adequately address the public interest in this case.

Suspension

184. The Tribunal determined that in light of the seriousness of Dr Zia’s misconduct, action must be taken to maintain public confidence in the profession and uphold proper standards for its members. In considering whether to impose a period of suspension on Dr Zia’s registration, the Tribunal had regard to paragraphs 92, 93 and 97 of the SG, which states:

‘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).

93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions (see paragraphs 24–49).

...

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

a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.

b In cases involving deficient performance where there is a risk to patient safety if the doctor’s registration is not suspended and where the doctor demonstrates potential for remediation or retraining.

...

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

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

185. The Tribunal was of the view that Dr Zia had breached a number of paragraphs of 2013 GMP, including paragraphs 1, 65, 71 and 73, his conduct breached fundamental tenets of the profession and brought the profession into disrepute. The Tribunal noted there was no acknowledgment of fault by Dr Zia, no apology for his repeated and wide-ranging failures and no evidence of remediation. The Tribunal found that there was a high risk of repetition.

186. The Tribunal accepted that there was no evidence that patients had come to harm as a result of Dr Zia's conduct. However, it balanced this against the fact there is no evidence that Dr Zia had any appreciation of the risk he placed on members of the public, or any of the organisations for whom he agreed to provide medical services.

187. The Tribunal considered whether Dr Zia's conduct either individually or collectively was fundamentally incompatible with continued registration. The Tribunal reminded itself that Dr Zia's misconduct commenced when he made the Application and he failed to declare the Undertakings, despite knowing he needed to do so. His misconduct escalated when he attended work in an acute A & E department in a hospital setting when he knew his LTP had been revoked and he knew he needed this to be able to work as a doctor. The Tribunal reminded itself of its findings that members of the public would be horrified to learn of a doctor acting in this way.

188. The Tribunal considered that Dr Zia's misconduct continued to escalate when he attended the IOT Hearing, knew that there had been a request by the GMC for his registration to be suspended, but took a call seeking to arrange further work with enhanced benefits during the IOT's adjournment to determine what action should be taken against him. Dr Zia further escalated the seriousness of his misconduct when less than three hours after the conclusion of the IOT Hearing, knowing that he had no LTP and that conditions had now been placed on his registration, he again attended work at the Trust. The Tribunal reminded itself that he had failed to tell anyone either at the Trust or at Total Assist of the revocation of his LTP or the conditions on his registration despite being required to do so. The Tribunal had regard to the fact that Dr Zia even when challenged and provided with evidence to demonstrate the truth of the situation, continued to deny any and all knowledge of issues affecting his LTP or registration.

189. The Tribunal determined that at every opportunity, Dr Zia allowed his own needs to override the safety of his patients, the wider public and the best interests of the Trust and Total Assist.

190. The Tribunal concluded that the seriousness of the underlying conduct, the blatant disregard for patient safety and the system of registration, and the persistent sustained, repeated dishonesty which was covered up, were all individually and collectively capable of being fundamentally incompatible with continued registration. The Tribunal concluded that in the circumstances of Dr Zia's case his actions were fundamentally incompatible with continued registration.

191. The Tribunal determined that the nature and seriousness of Dr Zia's misconduct coupled with the lack of any insight, evidence of remediation and the high risk of repetition, meant that a sanction of suspension would be inappropriate and insufficient to address the seriousness Dr Zia's misconduct. The Tribunal further concluded that a period of suspension on Dr Zia's registration would be insufficient to meet the public interest, would not maintain and uphold proper professional standards and would fail to protect patients, public confidence in the profession or the system of regulation.

Erasure

192. In considering erasure, the Tribunal considered that paragraphs 108, 109 (a) (b), (c), (d) (i) and (h), 120, 125 (e) and 128 of the SG set out below were all relevant and engaged in Dr Zia's case.

'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 difficult to remediate.
- b** A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.

- c* Doing serious harm to others (patients or otherwise), either deliberately or through incompetence and particularly where there is a continuing risk to patients...
 - d* Abuse of position/trust ...
 - ...
 - h* Dishonesty, especially where persistent and/or covered up
 - i* Putting their own interests before those of their patients.
 - j* Persistent lack of insight into the seriousness of their actions or the consequences.”
- “120 Good medical practice states that registered doctors must be honest and trustworthy, and must make sure that their conduct justifies their patients’ trust in them and the public’s trust in the profession.
- 125 Examples of dishonesty in professional practice could include
-
- (e) failing to take reasonable steps to ensure that statements made in formal documents are accurate”

193. Having determined that Dr Zia’s conduct was fundamentally incompatible with continued registration, the Tribunal considered that erasure was the only appropriate and proportionate sanction to protect the public interest, mark the seriousness of the misconduct and protect patients and protect public confidence in the profession and the wider system of regulation. It was also of the view that the sanction of erasure was necessary to maintain public confidence, protect the public interest and uphold standards. The Tribunal also determined that the sanction of erasure would send a message to the profession that Dr Zia’s conduct was wholly unacceptable and fell far short of the conduct and the standards of behaviour expected of a registered doctor.

194. Therefore, the Tribunal determined to erase Dr Zia’s name from the Medical Register.

Determination on Immediate Order - 17/09/2024

195. Having determined to erase Dr Zia’s name from the Medical Register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Zia’s registration should be subject to an immediate order.

Submissions

Submissions on behalf of the GMC

196. Ms Bucklow submitted that an immediate order is necessary to protect members of the public and protect public confidence in the profession. She also submitted that the current interim order should be revoked.

The Tribunal’s Determination

197. The Tribunal had regard to the submissions made by Ms Bucklow and to the guidance contained within the SG, in particular, paragraphs 172, 173 and 178 which state:

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

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

...

178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive

direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.”

198. The Tribunal bore in mind the above paragraphs of the SG and took account of its findings on impairment and sanction. The Tribunal determined that an immediate order of suspension is necessary to protect members of the public, to protect confidence in the medical profession and is in the wider public interest.

199. This means that Dr Zia’s registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction, as already announced, will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

200. The interim order will be revoked when the immediate order takes effect.

201. That concludes this case.

ANNEX A - 02/09/2024

Service of Notice of the Hearing

202. Dr Zia is neither present nor represented at this hearing.

203. The Tribunal considered the submissions made by Ms Jade Bucklow, Counsel, on behalf of the General Medical Council (GMC), that notification of this hearing has been properly served upon Dr Zia in accordance with Rule 40 of the General Medical Council ('GMC') ('Fitness to Practise') Rules Order of Council 2004 ('the Rules') and that the hearing should proceed in the doctor's absence.

204. Ms Bucklow, provided the Tribunal with documents regarding service of these proceedings on Dr Zia. The Tribunal was given a copy of the Medical Practitioners Tribunal Service (MPTS) Notice of Hearing, dated 12 July 2024, which was emailed to Dr Zia's GMC registered email address on the same date. Dr Zia replied to the MPTS on the 12 July 2024 and confirmed he had received the Notice of Hearing.

205. Ms Bucklow referred the Tribunal to email correspondence between Dr Zia and the GMC on 12 July 2024 in which Dr Zia was asked whether he intended to attend at the hearing. Ms Bucklow referred to confirmation from Dr Zia where he confirmed that although at the time he would be in Pakistan and during the course of the hearing he was likely to be in Australia, he would be participating in the hearing "online".

206. The Tribunal had regard to the case of *General Medical Council v Adeogba; General Medical Council v Visvardis [2016] EWCA Civ 162* which confirms that the GMC has a duty to communicate with a doctor at the registered address they provide. Dr Zia had not notified the GMC of any change in his contact details. The Tribunal noted that Dr Zia confirmed receipt of the Notice of Hearing by his reply to the email of 12 July 2024.

207. There Tribunal was therefore satisfied that Dr Zia had been properly served with the Notice of Hearing in accordance with the Rules.

Proceeding in Dr Zia's absence

208. Having been satisfied that the Notice of Hearing had been properly served on Dr Zia, the Tribunal went on to consider whether it would be appropriate to proceed with this

hearing in Dr Zia’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 great care, balancing the interests of the doctor with the wider public interest.

209. Ms Bucklow invited the Tribunal to proceed in Dr Zia’s absence. Ms Bucklow submitted that Dr Zia was aware of these proceedings but had voluntarily absented himself from it. She submitted that there was no explanation for his non attendance, no application for an adjournment and no indication that any adjournment would result in securing his attendance. Ms Bucklow submitted that there were matters of patient safety in question and that it was in the best interests of the doctor and the witnesses for the allegations to be dealt with as swiftly as possible.

210. The Tribunal was satisfied that reasonable efforts had been made to inform Dr Zia of the hearing. The documents provided by the GMC and MPTS to Dr Zia included all appropriate guidance and informed him of his options to seek adjournment or assistance, as well as informing him that the hearing may proceed in his absence.

211. The Tribunal noted that there had been limited engagement from Dr Zia with the proceedings until 26 July 2024. The Tribunal had regard to the fact that he has acknowledged Hearing Bundles and the Notice of Allegations from the GMC as well as the Notice of Hearing from the MPTS. The Tribunal also noted that Dr Zia had engaged in email correspondence and at least one telephone call as late as 25 July 2024 when all communication appeared to cease from Dr Zia. The Tribunal noted that the GMC attempted to communicate with Dr Zia up until 7 August 2024 but there was no further communication from Dr Zia. The communication between the GMC, MPTS and Dr Zia all indicated that this hearing would be proceeding. The Tribunal also noted that the Notice of Hearing from the MPTS indicated that the hearing could proceed in his absence and the potential consequences to his registration if the hearing did proceed.

212. The Tribunal noted there was no application for an adjournment from Dr Zia and there was no other explanation for his non attendance or his lack of engagement since late July 2024. In light of the evidence before it, the Tribunal was satisfied that Dr Zia had voluntarily absented himself from these proceedings.

213. The Tribunal acknowledged that Dr Zia’s input in these proceedings would be helpful, if not crucial, in determining whether the allegations should be found proved. However, the Tribunal balanced this against the seriousness of the allegations to be determined as well as

the fact that there was no evidence that any adjournment would result in securing Dr Zia's attendance at any subsequent hearing. The Tribunal also had regard to the need for allegations to be determined in a fair, economical, expeditious, and efficient disposal, the GMC's statutory overarching objective and the wider public interest. Having balanced all of the relevant factors and having regard to all the circumstances of the case, the Tribunal determined it was in the public interest to proceed with the hearing, as scheduled, in the doctor's absence.

214. Therefore, in accordance with Rule 31, the Tribunal has determined to proceed in Dr Zia's absence.

Schedule 1

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