PUBLIC RECORD

Dates: 25/10/2021 & 07/02/2022 – 08/02/2022

Medical Practitioner's name:	Dr Gazimbi MANIKA
GMC reference number:	6094805
Primary medical qualification:	MB ChB [Zimbabwe] 1990 University of Zimbabwe

Type of case

Restoration following disciplinary erasure

Summary of outcome

Restoration application refused. No further applications allowed for 12 months from last application.

Tribunal:

Legally Qualified Chair	Mr Paul Moulder
Medical Tribunal Member:	Dr Pranveer Singh
Medical Tribunal Member:	Dr Michelle Taggart

Tribunal Clerk:	Miss Jan Smith

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Scott Brady, QC, instructed by BMA Law (7 & 8 February 2022 only).
GMC Representative:	Mr Peter Byrne (25 October 2021 only) Ms Georgina Goring, Counsel (7 & 8 February 2022 only)

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 Restoration Application – 08/02/2022

Background

2014 Panel

1. This determination relates to Dr Manika's application for restoration to the Medical Register following erasure by the Fitness to Practise Panel in 2014. This determination will be read in private. However, as this case concerns Dr Manika's previous misconduct, a redacted version will be published at the close of the hearing with confidential matters removed.

2. Dr Manika qualified as a doctor in 1990 in Zimbabwe. His case appeared before a Fitness to Practise Panel in October 2014 (the 2014 Panel). Dr Manika was neither present nor legally represented at the 2014 Panel. In his absence, having been provided with documentary evidence from the GMC, the 2014 Panel concluded that Dr Manika had voluntarily absented himself from the hearing and it was satisfied that, in view of the public interest in his case, it was appropriate to proceed in the doctor's absence.

3. It was alleged, and the 2014 Panel found proved, that Dr Manika had altered the wording of a letter sent to him on 5 March 2009 from the UK Border Agency granting him discretionary leave to remain in the UK until 5 March 2012 by replacing "2012" with "2014". The UK Border Agency provided the GMC with a copy of its original letter confirming the date of 5 March 2012. During a raid on Dr Manika's home, the UK Border Agency found a copy of the letter which had been altered to "5 March 2014". It appeared that Dr Manika had used the altered letter to support his application for employment with an NHS Trust.

4. Dr Manika had made two visa applications in February 2012 and April 2012. The second application was rejected on 20 June 2012. By this time it was clear that Dr Manika was fully aware that his visa had expired, his applications for extensions had been rejected and that he no longer had leave to remain in the UK.

5. On 8 December 2012, Dr Manika applied for a position with 5 Boroughs Partnership NHS Foundation Trust (the Trust) as a locum specialty doctor, using the altered letter in support of his application. He stated that he had a visa dated from 5 March 2009 until 5 March 2014 and that he had discretionary leave to remain in the UK until 5 March 2014.

6. On a date between 8 December 2012 and 28 February 2013, Dr Manika was asked to attend at the Trust as part of its pre-employment checks for new staff. Dr Manika was asked to provide his passport and "right to work" documents to prove his immigration status. Dr Manika told the Trust that his passport was in the possession of the UK Border Agency and, instead, he produced a copy of the altered letter from the UK Border Agency dated March 2009.

7. Dr Manika's case was considered by a Fitness to Practise Panel in October 2014. He was neither present nor represented. The 2014 Panel was satisfied that Dr Manika's actions in forging a letter, lying on a job application form, falsely stating that the UK Border Agency had his passport, and submitted a forged letter to the Trust would be regarded as dishonest by the standards of reasonable and honest people. The 2014 Panel was also satisfied that Dr Manika knew that by those standards he had acted dishonestly.

8. The 2014 Panel concluded that Dr Manika's proven dishonest actions arose out of a desire to circumvent UK immigration laws for his own benefit and breached a number of key principles of Good Medical Practice (GMP). The 2014 Panel was in no doubt that such conduct brought the medical profession into disrepute and would be considered deplorable by fellow practitioners. The 2014 Panel was satisfied that Dr Manika's conduct was sufficiently serious to reach the threshold for misconduct.

9. The 2014 Panel was of the view that Dr Manika's serious misconduct, which involved dishonesty, had breached a fundamental tenet of the profession. It had not been provided with any information which indicated that Dr Manika had remediated his misconduct or developed any insight into the seriousness of his dishonest behaviour. The 2014 Panel

concluded that, in those circumstances, there was a risk of repetition of such conduct in the future.

10. The 2014 Panel had regard to the public interest in Dr Manika's case, in particular the need to maintain public confidence in the medical profession and to declare and uphold the proper standards of conduct and behaviour expected of a member of the profession.

11. Having taken all the evidence before it into account, the 2014 Panel determined that Dr Manika's fitness was impaired by reason of misconduct.

12. The 2014 Panel had already determined that Dr Manika's dishonest actions had breached key principles of GMP and it considered whether his misconduct was fundamentally incompatible with continued registration. Whilst there was no direct harm caused to patients, this did not reduce the seriousness of Dr Manika's behaviour. The 2014 Panel considered that dishonesty in a member of the medical profession was particularly serious because it undermined the trust placed in it by the public and reflected on the standards and reputation of the medical profession as a whole.

13. The 2014 Panel determined that the most aggravating feature of this case was that there were four instances of deliberate dishonesty occurring over a protracted period of time. There had been no acknowledgement of fault, either by way of admission or apology, and no demonstrable efforts at remediation. The 2014 Panel concluded that Dr Manika had demonstrated a persistent lack of insight into the seriousness of his misconduct, and it could not be satisfied that such conduct would not be repeated.

14. The 2014 Panel had particular regard to the public interest in Dr Manika's case and it determined that the maintenance of public confidence in the medical profession and its regulator, and the need to uphold proper standards of conduct and behaviour, would not be satisfied by the imposition of a period of suspension.

15. Accordingly, the 2014 Panel concluded that Dr Manika's conduct was fundamentally incompatible with continued registration and it determined that the only appropriate and proportionate sanction was one of erasure.

Evidence

GMC Evidence

16. The Tribunal had regard to the documentary evidence provided by the GMC which included, but was not limited to:

- Dr Manika's application to the GMC for restoration to the Medical Register;
- Private Record of Determinations from the FtP Panel hearing held in October 2014;
- Public Record of Determinations from the FtP Panel Hearing held in October 2014;
- Dr Manika's Residence Permit, granting Leave to Remain and Work Permit.

Dr Manika's Evidence

17. The Tribunal also had regard to the documents provided by Dr Manika in support of his application for restoration:

- BMJ online On Examination index page of Learning Journal;
- BMJ online Learning Journal from November 2020 to September 2021;
- Screenshot of Dr Manika's BMJ online Performance Score Analysis;
- BMJ Online Learning Journal, October 2021 – January 2022;
- A letter from Home Focus relating to Dr Manika's employment as a support worker;
- A testimonial letter from Cygnet Healthcare detailing his employment as a senior support worker and a job description detailing his duties in that role.

Dr Manika's Oral Evidence

18. Dr Manika gave oral evidence and answered questions from Mr Brady, QC, on his behalf, Ms Goring, Counsel, on behalf of the GMC and from the Tribunal.

19. Dr Manika expressed profound remorse for his actions in 2014. He told the Tribunal that he has reflected constantly on his behaviour and accepts that it is not appropriate behaviour for a medical practitioner practising in the UK.

20. Dr Manika stated that he had established his own medical practice in Zimbabwe which was doing well but he wanted a better life and better schools for his children and subsequently came to live in the UK. He said that he was married at the time and that his wife was already in the UK, although the children lived with him in Zimbabwe. Dr Manika told the Tribunal that he came to the UK in 2003 on a spouse visa, ie his wife had a legal right to live and work in the UK which gave Dr Manika a legal right to live in this country. Dr Manika said

that he worked as a carer with Access Care from 2003 until 2007 when he took out his registration with the GMC. He successfully completed English competency exams and the PLAB assessment. During this time, he experienced XXX in 2005. Dr Manika admitted that his focus was not totally on obtaining GMC registration whilst he resolved XXX.

21. Dr Manika stated that, on 1 June 2011, he started working for the Greater Manchester NHS Trust. In 2009 he had obtained Leave to Remain in the UK which was due to expire in March 2012.

22. Subsequently, Dr Manika met another woman whilst he was working at Access Care. When he obtained Leave to Remain, Dr Manika been living with his partner for a year, and they hoped to marry eventually.

23. Dr Manika told the Tribunal that he finished work on 31 January 2012 because it was only a fixed term contract and he still had Leave to Remain in the UK until March 2012. He stated that he did not seek alternative employment at that time because XXX. Dr Manika told the Tribunal that, during this time, XXX. Dr Manika said that he had already applied for an extension of Leave to Remain. His application was rejected because the incorrect form was used. A solicitor in Birmingham had made the application but did not complete it properly.

24. Dr Manika told the Tribunal that he was under a lot of pressure XXX. Another application was submitted, on the correct form, but the information it contained was not sufficient for the Home Office. It was submitted by the same solicitors. Dr Manika admitted that his preoccupation XXX interfered with his application for an extension of his leave to remain. He said that he did not have any money and that he had applied to a benevolent fund but only received one payment due to his immigration status. Dr Manika told the Tribunal that communications with the GMC had broken down because he had too much to cope with and at that time, he was of no fixed abode and did not have any money.

25. Between 2013 and 2018 Dr Manika was granted financial support from the George House Trust in Stockport XXX. In return Dr Manika said he volunteered his help on the Calabash Project which assisted African men.

26. On 25 October 2018 Dr Manika received his Residence Permit, giving him leave to remain. In 2020, he commenced work as a Senior Support worker for Cygnet Healthcare. He then worked for Home Focus in Manchester from July 2021.

27. Dr Manika said that he wanted to return to medical practice and work as a junior doctor and that, if his application for restoration was successful, he wished to go into Core training in psychiatry as provided by the NHS where he would receive proper training. Dr Manika suggested there was a possibility of an opportunity to work with the Cygnet Group as a junior doctor. He said he had spoken to Cygnet about this opportunity although he had not obtained any written confirmation of this possible future role.

28. In respect of his misconduct which led to his erasure, Dr Manika stated that his behaviour in 2012 was a "one-off". He had never acted like that before, he regretted his misconduct and will continue to regret it for the rest of his life.

29. On cross-examination by Ms Goring, Dr Manika accepted that he had been dishonest on 4 occasions over a protracted period of time and, although he recognised at the time that his dishonest acts were serious, only realised just how serious his misconduct was viewed after he had read the Panel's determination following his hearing in October 2014. Dr Manika stated that, at the time of his misconduct, his personal circumstances were such that he was in a desperate situation and felt as though he was "drowning".

30. Dr Manika had not undertaken any learning in relation to dishonesty but told the Tribunal he had read psychological books about honesty and how it is viewed, although he could not give details of any specific books or articles and admitted that it was a long time ago.

31. Dr Manika accepted that honesty was essential for a doctor and he had reflected on this issue although he had not kept a reflective diary or made any written notes concerning his reflections. He told the Tribunal that XXX had changed in the light of his misconduct.

32. Dr Manika stated that he had last worked as a medical practitioner on 5 January 2012. He has done a lot of online learning. However, he said he could not undertake clinical shadowing because he was not a registered practitioner. Indeed, he stated that he had asked a manager at Cygnet Healthcare if there was an opportunity of clinical shadowing and was told there was not until such time as he was restored to the medical register. Dr Manika stated that he had spoken about his situation with previous and current employers and had told them of the circumstances of his erasure from the register.

33. Dr Manika told the Tribunal that he had done all he could and provided all relevant documentation. He stressed that he was not used to being dishonest and that it was only his

desperate circumstances which made him act as he had. He said that he had been disturbed that he had provided information which he knew to be false.

34. The Tribunal put it to Dr Manika that if he was allowed to work as a doctor, he would be subject to stress and asked him how he would deal with any difficult circumstances in the future. Dr Manika told the Tribunal that he has faced many challenges and always did the right thing. Dr Manika emphasised that his previous conduct was utterly wrong, he had behaved dishonestly and will never do so again.

Submissions on behalf of the GMC

35. Ms Goring stated that Dr Manika's application for restoration to the Medical Register should be refused. She referred the Tribunal to *Guidance For Medical Practitioners Tribunals On Restoration Following Disciplinary Erasure'* (the Guidance) commencing with section B3 which sets out the relevant factors which must be taken into account when considering an application for restoration.

36. Ms Goring submitted that Dr Manika's misconduct which resulted in the erasure of his name from the Medical Register consisted of four instances of dishonesty over a protracted period of time. She accepted that dishonesty is difficult to remediate but submitted that Dr Manika's insight and remorse is limited and has only been expressed for the first time at this hearing. Dr Manika has not submitted any written reflections or evidence of insight. He has not provided a reflective journal as to how he has remediated and how the development of his insight is progressing. Ms Goring submitted that the Tribunal cannot be satisfied that Dr Manika has sufficient insight to be restored to the Medical Register. She reminded the Tribunal that full insight and remediation must be demonstrated before the risk of repetition is eradicated.

37. Ms Goring submitted that, in Dr Manika's case, there is no evidence of full insight and remediation and there is no evidence of any training courses undertaken to address his dishonest misconduct or engagement in coaching. She referred the Tribunal to paragraph B15 of the Guidance, which states:

> *B15 Remediation can take several forms including, but not limited to:*
>
> *a. participating in training, supervision, coaching and/or mentoring relevant to the concerns raised*

b. attending courses relevant to the concerns raised, for example anger management, maintaining boundaries, ethics or English language courses

c. evidence that shows what a doctor has learnt following the events which led to the concerns being raised, and how they have applied this learning in their practice (if applicable)

d. evidence of good practice in a similar environment to where the concerns arose

38. Ms Goring submitted that, following erasure from the Medical Register, a doctor will not have practised medicine in the UK for at least 5 years. In Dr Manika's case, he has not practised as a doctor for approximately 10 years. She reminded the Tribunal that, in terms of keeping his medical knowledge and skills up to date, Dr Manika has undertaken BMJ online learning but there is limited information available as to which modules he has undertaken. Ms Goring referred to Dr Manika's evidence that he has had conversations with previous employers but there is no written evidence of these conversations and thus limited weight can be given to this part of his evidence. She referred the Tribunal to paragraph B28 of the Guidance which states:

B28 The doctor will not have had clinical contact with patients in the UK for a minimum of five years. The onus is on the doctor to demonstrate they have kept their medical knowledge and skills up to date and are safe to resume unrestricted practice.

39. Ms Goring referred to Dr Manika's evidence when he explained why he had not undertaken any clinical shadowing. He told the Tribunal that his employers had told him that he was not allowed to clinically shadow without registration with the GMC. Ms Goring told the Tribunal that this is not the case and that doctors who are not registered can undertake clinical shadowing although clinical attachments are not permitted.

40. Ms Goring also referred to Dr Manika's evidence that he had read a large volume of books and articles to keep his medical knowledge up to date. However, she submitted, he was unable to provide any evidence as to the material he had been reading or the titles of any of the books or articles.

41. Ms Goring submitted that, in Dr Manika's case, there is a significant lack of evidence to demonstrate that he is fit to return to unrestricted practice. It was her contention that Dr

Manika has not done enough to discharge the onus upon him and the Tribunal cannot be satisfied that he is fit to be restored to the Medical Register. In conclusion, Ms Goring submitted that the Tribunal should refuse Dr Manika's application for restoration.

Submissions on behalf of Dr Manika

42. Mr Brady acknowledged that the onus is on the doctor to satisfy the Tribunal that he is fit to be restored to the Medical as set out in s41 of the Medical Act 1983, as amended. He referred to the Guidance which makes it clear that the Tribunal must have regard to the overarching objective but submitted that it should also bear in mind other factors as well.

43. Mr Brady acknowledged that a doctor is entitled to apply for restoration after 5 years. He submitted that there are matters of degree, even in dishonesty. It was his contention that if there no such degrees, then the right to apply after 5 years would have been restricted, in relation to cases involving dishonesty, but it has not.

44. Mr Brady referred to paragraph 49 of the Guidance which details offences which are so serious that they are unlikely to meet the overarching objective, which include:

> *B49 …*
>
> *murder*
>
> *rape or sexual assault by penetration*
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> *sexual offences involving children or adults with a mental disorder impeding choice. This could include the creation, possession or distribution of child sex abuse materials*
>
> *offences involving human trafficking, slavery, servitude and forced or compulsory labour*
>
> *extortion and blackmail*
>
> Mr Brady submitted that none of these serious offences applied in this case.

45. Mr Brady submitted that, in the exercise of discretion, the Tribunal must give appropriate weight to the evidence before it but it must also give weight to the fact that more than 5 years has passed since the incidents of Dr Manika's dishonesty. He submitted

that if a doctor had a long history of dishonesty then the misconduct would weigh heavily or, after erasure, another doctor committed further actions of dishonesty, then clearly that would be a feature.

46. Mr Brady submitted that the Tribunal should take into account that, in this case, the findings of the 2014 Panel were not contested, there was no false denial, no attempt to lie and no attempt to deal dishonestly with the GMC which could lead a Tribunal to conclude that it was much more serious dishonesty.

47. Mr Brady submitted that the Tribunal must assess, using its discretion, the instances of dishonesty in this case and that, in doing so, the fundamental point of evidence must surely be the doctor himself. He contended that it is a classic function of the Tribunal to assess the person himself in terms of how he gives evidence, how he presents himself, how he demonstrates insight into his previous misconduct.

48. Mr Brady referred to the circumstances which led to the erasure of Dr Manika's name from the Medical Register and the 2014 Panel's reasoning. He did not criticise the original findings or the previous Panel's decision as clearly, at that time, the protection of the public would not have been met. He submitted that, with further information available to this Tribunal, which was not available to that the previous hearing, an explanation has been provided as to how it came to be that Dr Manika committed acts of dishonesty. In the context of the circumstances in which Dr Manika found himself at the time, XXX and, Mr Brady submitted, that Dr Manika's mind was not focussed on the matter in hand that it is important that these factors are taken into account which add context to Dr Manika's position today.

49. Mr Brady submitted that the Tribunal should consider that this is not a case of Dr Manika never having been given Leave to Remain in the UK. The solicitors acting on his behalf did not act properly and, as a consequence, he did not obtain his Leave to Remain. Subsequently, he has obtained the Leave to Remain as evidenced by his Residence Permit granting him Leave to Remain and permitting him to work in the UK.

50. In terms of likely repetition of his previous misconduct, Mr Brady reminded the Tribunal that Dr Manika did act dishonestly and over a long period of time which he has accepted. He submitted that, looking at Dr Manika's life at that time he was dealing with a number of unique factors in his life and it is unlikely that such factors as those described by Dr Manika would be repeated in the future. Mr Brady referred to the consequences that arose following the misconduct in that Dr Manika went through a disciplinary process, he endured the shame

and XXX and therefore Dr Manika needs to be evaluated on his circumstances and what he has said at this hearing to be given due weight.

51. Mr Brady submitted that Dr Manika has clearly demonstrated insight; indeed, he has had plenty of time to reflect on his misconduct. He referred to Dr Manika's evidence when he told the Tribunal of how he was not able to work, how had had sought funds to pay his bills, and how he had worked on a voluntary on the Calabash Project helping other African man. Furthermore, Mr Brady submitted that there is testimonial evidence, in particular from Home Focus, which attests to Dr Manika's honesty and integrity.

52. Mr Brady reminded the Tribunal that Dr Manika had attempted to be included in clinical observation but, after conversations with his employer about such observations, he was told that he could not participate in any meetings with patients whilst he was not on the Medical Register.

53. Mr Brady referred to Part F of the Guidance, in particular paragraph F1 which states:

> "*Doctors can apply for restoration either with or without a licence to practise. Once the Tribunal has granted restoration, even if it is for registration only, the doctor will subsequently have the right to apply for a licence to practise*".

54. Mr Brady also referred to paragraph F3 which states that, where a doctor is restored after 5 years or more away from practice, he can only work in an approved practice setting until revalidation has taken place. Mr Brady submitted that, clearly, there is a system for doctors who are restored after disciplinary procedures.

55. In conclusion, Mr Brady submitted that, whilst the Tribunal has not been provided with a reflective diary or written evidence of insight, it has all it needs to make a decision on restoration. He confirmed that his application on behalf of Dr Manika is an application is an application for restoration without a licence to practise.

Further Information

56. Following submissions from both counsel, the Tribunal questioned whether an application for restoration could be granted without a licence to practise. After taking instructions from her instructing solicitor, Ms Goring confirmed that, in law, Dr Manika

cannot be restored to the register without a licence to practise as set out in s41(7) of the Medical Act 1983, as amended.

The Approach of the Tribunal

57. In reaching its decision on Dr Manika's restoration application, the Tribunal took account of the statutory overarching objective:

a. to protect, promote and maintain the health, safety and well-being of the public;

b. to promote and maintain public confidence in the medical profession; and

c. to promote and maintain proper professional standards and conduct for members of that profession.

Advice on Restoration from LQC

58. The LQC gave advice in the presence of counsel. He advised the Tribunal that where an application for restoration is made to a Tribunal, it may, if it thinks fit, direct that the doctor's name be restored to the register as stated in s41(1) of the Medical Act 1983, as amended. The Tribunal must have regard to the Restoration Guidance and consider it carefully. If the Tribunal departs from the Guidance, then it must give cogent reasons for its decision.

59. This is Dr Manika's first restoration application. His name was erased more than five years ago, so he is entitled to apply for restoration, but the onus is on him to show that his name should be restored to the Medical Register. The purpose of a restoration hearing is for the Tribunal to decide if the doctor is fit to practise, taking account of the statutory overarching objective and other relevant factors.

60. The Tribunal must consider all the oral and written evidence and give such weight as it considers appropriate. It should take into account certificates of training undertaken and testimonial evidence as well as the determination of the Panel at the previous hearing in October 2014, although this Tribunal cannot go behind the decision made in 2014. It should also consider the submissions of both Ms Goring and Mr Brady.

61. The Tribunal must take into account any information provided following erasure, including:

> Insight, remorse, the potential impact of the misconduct and subsequent remediation
>
> Is the misconduct remediable, has it been remediated, is the dishonesty likely to be repeated
>
> Is he safe to resume unrestricted practice taking into account the overarching objective
>
> The length of time which has elapsed since erasure

62. The LQC referred to the case of *GMC v Chandra* [2018] EWCA Civ 1898 in the Court of Appeal in which the Court of Appeal said that the Tribunal had made an error in principle by focussing centrally on the risk of repetition and ignoring the impact on public confidence in the medical profession. It made clear that a Tribunal must strike a balance between the risk of repetition, protecting the public, maintaining public confidence and upholding professional standards.

63. The Tribunal must be satisfied that restoration would promote and maintain public confidence and uphold professional standards so that, bearing in mind the serious nature of the original matters which led to erasure, the overarching objective to protect the public would be achieved.

Erasure in 2014

64. The Tribunal considered the circumstances which led to Dr Manika's erasure, as detailed above and referred to by counsel.

Tribunal Decision

65. The Tribunal considered the information provided to it relating to the circumstances of Dr Manika's dishonesty, including his personal issues, XXX. The Tribunal found Dr Manika to be a credible witness as to the facts around the time of his dishonest misconduct. It accepted that this information added some context to his misconduct, and that Dr Manika had been

subject to some very unfortunate personal circumstances at the time. The Tribunal accepted that, in principle, there are degrees of dishonesty seen in the cases. It also accepted that, bearing in mind the severe stresses that Dr Manika was subject to, his dishonesty was mitigated to a degree and was not simply a matter of Dr Manika solely seeking his own financial benefit. Nevertheless, the circumstances of Dr Manika's dishonesty remain very serious.

66. The Tribunal has given consideration and weight to the significant life events experienced by Dr Manika. It has also given weight to the doctor's evidence, which was lengthy and cogent, but a doctor's evidence is not the sole consideration when considering an application for restoration. A doctor must satisfy a Tribunal respect of his insight, reflection and remediation, clinical skills and medical knowledge.

67. The Tribunal acknowledged that Dr Manika has only recently obtained legal representation, ie since October 2021, when this hearing adjourned to allow him to secure a legal representative.

Insight, Remorse and Risk of Repetition

68. The Tribunal accepted that Dr Manika has developed some insight into his previous misconduct although the Tribunal found that it had been provided with limited evidence of the steps he has taken, prior to the hearing. It considered that there would be a significant amount of information available to assist him, either from the BMA or the GMC itself. Dr Manika, in seeking to discharge the burden upon him, had not shown to the Tribunal a sustained development of insight over the period since his erasure. There is no written evidence to support his claim that he has developed full insight, has reflected fully and has remediated his misconduct.

69. The Tribunal has heard Dr Manika's oral evidence about the circumstances in 2011 and 2012 which led to his dishonest behaviour. It found his explanations to be credible and went some way to explain why he had acted as he did. The Tribunal has acknowledged that Dr Manika has gained some insight into his dishonesty, although it appears that his awareness of his insight is only starting to develop at this late stage. Despite Dr Manika's claim that he has developed his insight, he has not provided any significant evidence such as undertaking any ethics courses, providing any written reflections to satisfy a Tribunal that his insight is fully developed.

70. The Tribunal has taken into account the effect his behaviour has had on his family and personal life and acknowledged that he has been in a difficult situation for a very long time. It accepted his oral evidence in which he expressed regret and remorse and the shame he has brought to his family. However, it is difficult to assess his remorse in a professional capacity as it remains unclear whether he fully appreciates the impact on the wider public interest and the confidence in the medical profession. The Tribunal has noted that Dr Manika has been open with the Cygnet Group and has offered apologies. He appeared to be remorseful for what happened, he apologised at this hearing today, he admitted all the findings against him and did not seek to downplay his dishonest conduct.

71. The Tribunal acknowledged the submission on behalf of Dr Manika, that the Tribunal ought to be able to assess Dr Manika's insight on hearing him give evidence before it. However, in its view, Dr Manika needed to demonstrate by evidence that he had fully developed and embedded his insight over time and to support his reflections on the effects of dishonesty on himself, the public and the profession.

72. The Tribunal accepted that, despite a finding of dishonesty, a doctor can be restored to the register if the Tribunal thinks it fit but the threshold demonstrating fitness to practise has to be met.

73. The Tribunal is aware that, for the purposes of licencing and revalidation, a doctor should be able to demonstrate probity, good ethics, adherence to GMP, as well as up to date medical knowledge and clinical skills. All these issues are fundamental to demonstrating full remediation. The Tribunal has not been provided with any evidence of these matters.

74. The Tribunal has noted that Dr Manika has previous experience of the NHS and could have spoken to others in the service and got advice in terms of clinical matters and ethical issues and, thus, would have been in a position to provide much more recent and relevant evidence to this Tribunal. Nevertheless, the Tribunal considered that, fundamentally, in an application for restoration, the onus is on the doctor to fully demonstrate that he has developed sufficient insight and has undertaken sufficient remediation to satisfy the Tribunal.

75. In the Tribunal's view, Dr Manika's previous misconduct is remediable, but he has not persuaded this Tribunal that his misconduct has been fully remediated. A considerable period of time has passed during which he could have put more work in to reflection and remediation to support an application for restoration. The Tribunal considers that Dr Manika's circumstances are now much improved in that he now has Leave to Remain in the

UK, XXX, and XXX. In these circumstances, many of Dr Manika's personal pressures have lessened.

76. The Tribunal decided that Dr Manika has not demonstrated to it his full development of insight, nor has he shown that he has fully remediated his past misconduct. It acknowledged that the exact personal circumstances of Dr Manika's past were peculiar to that time; however, the Tribunal has to consider the risk of Dr Manika acting dishonestly in response to serious stress which he may encounter in his future professional life. In view of the Tribunal's findings concerning Dr Manika's insight and remediation, the Tribunal did not find that it was highly unlikely that there would be a repetition of dishonesty.

77. The Tribunal also had to consider Dr Manika's maintenance of his medical knowledge and skills. There has been a considerable length of time for which Dr Manika has been out of clinical practice, in the region of 10 years. The Tribunal took into account the online courses that Dr Manika has undertaken. It appears that he has done a range of activities but there is no evidence of CPD. There is a lack of evidence about his clinical skills, medical knowledge base and the measures he has taken to address his dishonesty. In the Tribunal's view, these are all professional obligations of which Dr Manika should have been aware. The Tribunal accepts that the BMJ online learning he has done suggests he is trying to keep his medical knowledge up to date. However, that is different to proving he has the necessary clinical skills.

78. The Tribunal noted that the last time Dr Manika was engaged in clinical practice was in a fixed term post of 6 months as a doctor in psychiatry with the Cygnet Group approximately 10 years ago. Dr Manika has told the Tribunal he will apply for roles as a junior doctor in psychiatry. However, he has had no clinical interaction with patients for a significant period of time.

79. The Tribunal concluded that, although Dr Manika may have maintained some of his medical knowledge there is no evidence to suggest that he has the appropriate current clinical skills required to practise medicine. Whilst the Tribunal accepts that Dr Manika was told he could not undertake clinical shadowing, he did have advice and support from the BMA and he could have sought their advice and information from other sources but he does not appear to have done so. In the Tribunal's view, these are matters of which Dr Manika should have been aware when making his application.

80. In considering the application as a whole, the Tribunal has borne in mind that the onus is on Dr Manika to prove he is fit to practise and it is not satisfied that he has taken adequate steps to demonstrate that he is fit to return to medical practice. The Tribunal is aware that Dr Manika is keen to resume his medical career but, at this time, has failed to produce sufficient information or evidence that he is fit to do so.

81. The Tribunal has had regard to the three limbs of the overarching objective. It has borne in mind the length of time which has elapsed since Dr Manika has been in clinical practice. The Tribunal decided that it would not be in accordance with the three limbs of the overarching objective if it allowed Dr Manika to be restored to the Medical Register. The Tribunal decided that, in all the circumstances, Dr Manika is not fit to practise and should not be restored to the Medical Register at this time.

82. In all the circumstances, the Tribunal has determined to refuse Dr Manika's application for restoration to the Medical Register.

ANNEX A

Application for Adjournment – 25/10/2022

1. On the first day of this restoration application hearing, Dr Manika made an application for the hearing to adjourn for 3 months under Rule 29(2) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules').

2. Following the opening of the restoration application and at the stage of making submissions, Dr Manika made an application to adjourn these proceedings, initially for a period of 4 – 6 months. Dr Manika submitted that, since this hearing commenced, he realised that he could not present his application for restoration by himself and that he would need to obtain the services of a legal representative.

3. Mr Byrne, on behalf of the GMC, opposed the adjournment. He submitted that Dr Manika made the application for restoration to the Medical Register and has been aware of this hearing for several months. Mr Byrne said that an adjournment of 4 – 6 months was an unnecessarily long period and that it was not in the public interest to grant Dr Manika's application to adjourn.

4. Dr Manika maintained his position that he would be at a disadvantage if the hearing was to proceed today and that he was not able to present his application for restoration satisfactorily without the assistance of a legal representative. Dr Manika submitted that he would be content for an adjournment of 3 months.

5. The Tribunal has taken into account a number of factors in reaching its decision as to whether to grant an adjournment of these proceedings. The Tribunal acknowledges that proceedings such as these should be dealt with expeditiously, in the interests of justice and the public interest. It is aware that Dr Manika has been aware of these proceedings for some time and has had the opportunity to seek legal advice prior to the commencement of today's hearing, but chose not to do so. Furthermore, the bundle of papers relating to this were disclosed to him and he was provided with the necessary guidance.

6. The Tribunal is conscious that Dr Manika is unrepresented at this hearing. Although Dr Manika made the application to the GMC for restoration to the Medical Register, it became apparent, once the hearing had commenced, that he did not understand or fully appreciate some of the issues in presenting his application or the process of this hearing.

7. The Tribunal noted that, in his submissions, Dr Manika referred to the decision to erase his name from the Medical Register in 2014 and wished to make submissions on that decision. It appeared that he did not understand that this Tribunal cannot go behind the decision of the previous Fitness to Practise Panel in terms of its findings of fact.

8. During this hearing, Dr Manika was given the opportunity to decide whether to give his submissions or to agree to give evidence under oath, when he would be cross-examined by Mr Byrne. He was given time to consider all the options open to him and, on his return to the hearing, he decided that he was unable to make the application for restoration by himself without the benefit of legal representation.

9. The Tribunal has noted that Dr Manika is currently erased from the Medical Register and he will remain so until the application for restoration has been granted. Therefore, any risk to the public which might otherwise result from an adjournment is lessened as a result. The Tribunal is of the view that Dr Manika is likely to benefit, in terms of his ability to present the application, from the opportunity to seek legal advice and/or representation.

10. Having carefully weighed the public interest in expediting regulatory proceedings in this particular case, with the prejudice to the doctor in refusing this application, the Tribunal determined the balance is in the doctor's favour. The Tribunal has concluded that it would not be just to proceed with this application for restoration without giving Dr Manika a further opportunity to obtain legal advice, notwithstanding that an adjournment would inevitably delay expeditious disposals of these matters.

11. In light of the reasons set out above, the Tribunal has determined that it is in the interests of justice and fairness to adjourn today's proceedings. It has therefore granted Dr Manika's application to adjourn.