

PUBLIC RECORD**Dates:** 26/02/2024 - 28/02/2024

Medical Practitioner's name:	Dr George ZENG	
GMC reference number:	7604707	
Primary medical qualification:	MB BS 2018 Imperial College London	
Type of case	Outcome on facts	Outcome on impairment
New - Conviction	Facts relevant to impairment found proved	Impaired

Summary of outcome

Suspension, 12 months
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mrs Ruth Curtis
Lay Tribunal Member:	Mrs Valerie Paterson
Medical Tribunal Member:	Dr John Moriarty
Tribunal Clerk:	Ms Jemine Pemu

Attendance and Representation:

Medical Practitioner:	Not present, not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Ms Georgina Goring, 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 - 26/02/2024

Background

1. Dr Zeng qualified as a doctor in 2018 at Imperial College London and at the time of the events which are the subject of the hearing Dr Zeng was practising as a Radiology ST2 Trainee within Health Education England North East.
2. On 6 November 2021, Dr Zeng had XXX and had installed a covert camera in the toilet so as to obtain footage of people using the facilities. A XXX visitor had noticed the camera and, along with XXX, confronted Dr Zeng about it. They seized the memory card from the camera, which showed footage that had been obtained whilst they had been using the toilet during the course of their visit. The matter was reported to the police. Dr Zeng was arrested by Northumbria Police on 10 November 2021 and taken into custody where he provided a 'no comment' interview. His electronic devices were seized. He was released pending further investigation later that day with no bail or conditions.
3. Dr Zeng made a self-referral to the GMC on 12 November 2021, following his arrest on 10 November 2021 by Northumbria Police.
4. Dr Zeng was subsequently charged with the offence of voyeurism – recording a private act with the purpose of obtaining sexual gratification by looking at the image of that act, contrary to Section 67(3) and 67(5) of the Sexual Offences Act 2003.
5. Dr Zeng pleaded guilty at the first court hearing on 17 May 2023 in the Newcastle Magistrates' Court and was convicted of '*Voyeurism – recording a private act*'. On the same date he was sentenced to a 24 month community order with an obligation to attend 30 rehabilitation activity requirement days and to participate in an accredited Horizon programme for 24 days. He was also fined £500 and was ordered to register with the police

in accordance with the Sexual Offences Act 2003 from 17 May 2023 for five years (the Sex Offenders Register).

The Outcome of Applications Made during the Facts Stage

6. The Tribunal accepted Ms Goring’s submissions, on behalf of the GMC, made pursuant to Rule 40 of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’), that notice of this hearing had properly been served on Dr Zeng, and granted an application, made pursuant to Rule 31 of the Rules, that this hearing should proceed in his absence. The Tribunal’s full decision on these applications is included at Annex A.

The Allegation and the Doctor’s Response

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

1. On 17 May 2023 at Newcastle Magistrates’ Court you were convicted of voyeurism – recording a private act, contrary to Section 67(3) and 67(5) of the Sexual Offences Act 2003. **To be determined**

2. On 17 May 2023 you were sentenced to a community order in relation to those matters set out at paragraph 1 and ordered to:

a. participate in an accredited Horizon programme for 24 days; **To be determined**

b. comply with instructions of a responsible officer to attend a rehabilitation activity up to a maximum of 30 days; **To be determined**

c. pay a fine in the sum of £500.00; **To be determined**

d. register with the police in accordance with the Sexual Offences Act 2003 for 5 years. **To be determined**

The Facts to be Determined

8. As Dr Zeng was not present, nor represented at the hearing to formally admit the Allegation in accordance with Rule 17(2)(e) of the Rules, the Tribunal went on to determine

whether sufficient evidence had been adduced in order that it could find the Allegation proved.

Documentary Evidence

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

- Dr Zeng’s written submissions, dated 20 January 2024;
- Certificate of conviction, dated 17 May 2023;
- Email from Northumbria Magistrates’ Court to the GMC, enclosing sentencing remarks of District Judge Curren, dated 26 October 2023;
- Letter from Northumbria Police with enclosures, dated 8 November 2023;
- Letter from Ms A, XXX, dated 11 May 2023;
- Letter from NHS Health Education England, North East and North Cumbria confirming that Dr Zeng’s employment with the Lead Employer Trust terminated on 23 May 2023 and his national training number had been formally removed;
- Multi Source Feedback reports;
- Annual Review of Competence Progression reports;
- Higher Education Achievement Report;
- Certificate of Completion – Probity & Ethics In Practice, dated 22 September 2023.

The Tribunal’s Approach

10. 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 Zeng 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.

11. Given this case relates to a criminal conviction, the Tribunal was reminded of Rule 34(3) of the Rules, which sets out that:

(3) ‘Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence ... shall be conclusive evidence of the offence committed.’

...

(5) The only evidence which may be adduced by the practitioner in rebuttal of a conviction or determination certified in the manner specified in paragraph (3) or (4) is

evidence for the purposes of proving that he is not the person referred to in the certificate or extract

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1

13. The Tribunal considered whether, on 17 May 2023 at Newcastle Magistrates' Court, Dr Zeng was convicted of the offences as outlined at paragraph 1 of the Allegation.

14. The Tribunal referred to the document, dated 29 November 2023, which was a certified copy of Dr Zeng's Certificate of Conviction, dated 17 May 2023, and signed by an Officer of the Court, which recorded that Dr Zeng was, on 17 May 2023, convicted of the offences as outlined at paragraph 1 of the Allegation.

15. The Tribunal also noted the evidence provided which indicates that Dr Zeng pleaded guilty to the offences at Newcastle Magistrates' Court on 17 May 2023. It also had regard to Dr Zeng's written submissions dated 20th January 2023 in which he states, '*I admit to sexual misconduct in my personal life, namely Voyeurism, and received a conviction for this offence following a guilty plea at Newcastle Magistrates' court on 17th May 2023*'.

16. Accordingly the Tribunal found this paragraph of the Allegation proved.

Paragraph 2

17. The Tribunal referred to the Certificate of Conviction, dated 17 May 2023, and signed by an Officer of the Court. The Tribunal noted that, in accordance with s34 of the Rules this is conclusive proof that he committed this offence. The Tribunal noted that this certificate stated that Dr Zeng was to be sentenced to a community order in which he must:

- '*participate in an accredited Horizon programme for 24 days. Horizon Program*';
- '*Rehabilitation Activity Requirement: Offender to comply with any instructions of the responsible officer to attend appointments (with the responsible officer or someone else nominated by them), or to participate in any activity as required by the responsible officer up to a maximum of 30 days.*'

- *'Fined £500.00.'*
- *'register with the police in accordance with the Sexual Offences Act 2003 from 17/05/2023 for 5 Years...'*

18. Having had regard to the Certificate of Conviction, the Tribunal was satisfied that Dr Zeng was sentenced as outlined. Accordingly, the Tribunal found paragraph 2 of the Allegation proved.

The Tribunal's Overall Determination on the Facts

19. The Tribunal has determined the facts as follows:

1. On 17 May 2023 at Newcastle Magistrates' Court you were convicted of voyeurism – recording a private act, contrary to Section 67(3) and 67(5) of the Sexual Offences Act 2003. **Determined and found proved**
2. On 17 May 2023 you were sentenced to a community order in relation to those matters set out at paragraph 1 and ordered to:
 - a. participate in an accredited Horizon programme for 24 days; **Determined and found proved**
 - b. comply with instructions of a responsible officer to attend a rehabilitation activity up to a maximum of 30 days; **Determined and found proved**
 - c. pay a fine in the sum of £500.00; **Determined and found proved**
 - d. register with the police in accordance with the Sexual Offences Act 2003 for 5 years. **Determined and found proved**

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

Determination on Impairment - 27/02/2024

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

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary.

Submissions

3. On behalf of the GMC, Ms Goring, Counsel, submitted that Dr Zeng's fitness to practise is currently impaired by reason of the facts found proved and his conviction. She invited the Tribunal to consider the case law of *CHRE v. NMC & Paula Grant [2011] EWHC 927 (Admin)*, which sets out the approach a Tribunal should take in determining issues of impairment. Ms Goring submitted that the second and third limbs of this test were engaged.

4. Ms Goring submitted that Dr Zeng's offence involved a number of victims and that there is a significant breach of trust. The offence is sexual in nature which makes this a very serious criminal offence.

5. Ms Goring submitted that a doctor being convicted of this type of offence seriously undermines the public's trust in the profession. She submitted that any doctor convicted of voyeurism and this type of behaviour will clearly bring the profession into disrepute.

6. Ms Goring further submitted that Dr Zeng's conduct breached fundamental tenets of the medical profession. She submitted that doctors are expected to act with integrity at all times, both in their professional and personal capacities. Ms Goring submitted that by filming XXX, Dr Zeng failed to act with integrity.

7. Ms Goring invited the Tribunal to consider whether or not the behaviour is capable of remediation and to consider whether there is a risk of repetition. Ms Goring further invited the Tribunal to consider Dr Zeng's level of insight into the behaviour that led to his criminal conviction.

8. Ms Goring submitted that, in fairness to Dr Zeng, he entered into a guilty plea at the criminal courts at the first available opportunity. She also drew the Tribunal's attention to Dr Zeng's written submissions where Dr Zeng dealt with matters of remorse, remediation and

his lessons learned. She submitted that it is for the Tribunal to determine the level of insight that Dr Zeng displays.

9. Ms Goring submitted that, given this is a criminal sexual offence which resulted in the imposition of a community order, the GMC's position remains that a finding of impairment is necessary to maintain the public's confidence in the profession. She submitted that this is despite any insight or remediation that Dr Zeng may have demonstrated.

10. Ms Goring submitted that this is a case where the public interest must take priority in order to maintain the standards required and therefore Dr Zeng's fitness to practice should be found impaired by virtue of his conviction

The Relevant Legal Principles

11. The Tribunal reminded itself that, at this stage of proceedings, there is no burden or standard of proof, and the decision of impairment is a matter for the Tribunal's judgement alone.

12. The Tribunal bore in mind that it must determine whether Dr Zeng's fitness to practise is currently impaired by reason of his conviction, taking into account his conduct at the time of the events and any relevant factors since then.

13. Whilst there is no statutory definition of impairment, the Tribunal applied the approach to impairment as set out by Dame Janet Smith in The Fifth Shipman Report and adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 927 Admin*:

- 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.

14. The Tribunal had further regard to the principles established in the case of *Cohen v General Medical Council [2008] EWHC 581 (Admin)* which require the Tribunal to consider:

- (a) whether the conduct can be remediated;

- (b) whether it has been remediated; and
- (c) whether there is a risk of repetition.

15. In coming to a conclusion on impairment the Tribunal had at the forefront of its mind all three limbs of the statutory overarching objective:

- To protect, promote, and maintain the health, safety, and well-being of the public;
- To promote and maintain public confidence in the medical profession;
- To promote and maintain proper professional standards and conduct for members of that profession.

The Tribunal's Determination on Impairment

16. The Tribunal had regard to 35C of the Medical Act 1983 which sets out categories of impairment in sub paragraph (2):

35C. Functions of the Investigation Committee

(1) ...

(2) A person's fitness to practise shall be regarded as "impaired" for the purposes of this Act by reason only of –

...

(c) a conviction or caution in the British Islands for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;

17. The Tribunal first considered the seriousness of the conviction. Dr Zeng had been convicted of a serious criminal offence, the offence of 'Voyeurism – recording a private act' contrary to Section 67(3) and 67(5) of the Sexual Offences Act 2003. It noted that the seriousness of the conviction is marked by the sentence Dr Zeng was given, which included being placed on the Sex Offenders Register for a period of 5 years. The Tribunal noted that this would remain in place until 17 May 2028.

18. The Tribunal considered that the conviction and the facts of the event which led to the conviction would seriously undermine public confidence in the medical profession. The Tribunal bore in mind the role of a doctor in society, in particular the position of trust and the

power they hold. It considered that it would be extremely unnerving for a member of the public to learn about Dr Zeng's conviction and the context in which the offence occurred. The Tribunal bore in mind that patients must be able to trust medical professionals and incidents such as this could erode a patient, or member of the public's, ability to trust a practitioner.

19. The Tribunal had regard to Good Medical Practice (2024) ('GMP') and considered that the following paragraphs were engaged in this case:

'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.'

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

20. The Tribunal accepted Ms Goring's submissions that this was a serious breach of trust. It took the view that this breach of trust was aggravated by Dr Zeng's position as a doctor.

21. The Tribunal considered that this was not a victimless offence and had regard to the Victim Personal Statements provided by the six victims to the offence. The Tribunal noted that it was clear that the victims were quite affected by this incident, that it caused an impact not only in their personal lives but also affected their work. The Tribunal noted that some of the victims needed to take time off work and seek help and support XXX to process the incident.

22. The Tribunal considered that Dr Zeng has had no previous convictions for a similar offence and the conviction related to a singular incident. It was mindful that no evidence has been placed before it to suggest that this was anything other than a one-time offence. The Tribunal bore in mind that Dr Zeng admitted his conduct to XXX straight away and entered a guilty plea at the earliest opportunity. The Tribunal had regard to the sentencing remarks made by District Judge Curren in which he stated:

'...the D who had cooperated fully with the police and admitted the offence immediately when he was arrested. He pleaded guilty at the first court hearing and was sentenced later that day after he had been interviewed by the probation service. The Probation Service provided a report about the Defendant which I read prior to passing sentence.'

23. The Tribunal considered whether Dr Zeng’s conduct could be remedied and if it has been remediated, it noted that certain types of conduct will be difficult to remediate. The Tribunal had regard to the sentencing remarks made by District Judge Curren in which he stated:

‘The offence had been committed in the context of XXX following the pressures of working during the COVID pandemic. It was said to have been completely out of character. The Defendant had no other previous convictions. Following the offending and prior to the court case being heard the Defendant XXX.’ He was assessed as being of low risk of re-offending or causing harm to others. He was supported in his endeavours by family members who attended court with him. He had financed XXX.’

24. The Tribunal further considered Dr Zeng’s written submissions in which he wrote:

‘I recognise the impact of this offence on the profession and public safety and interests. This behaviour is a serious breach of patients’ and the public’s confidence in the profession and the public is likely to be alarmed at the lack of respect for privacy and trust shown by a doctor with this behaviour.’

‘I felt immediate remorse and shock at my behaviour, once confronted with it. I wanted to do the right thing - I accepted what I had done, apologised to the victims XXX and self-referred myself to the GMC. Most importantly, I wanted to make sure that I never repeat this behaviour and offence by wanting to explore what went wrong and to address the behaviour.’

25. The Tribunal accepted that Dr Zeng was remorseful, and had shown some insight into his actions. The Tribunal concluded that it was difficult to be fully satisfied of his level of insight in part due to his absence and in part due to the lack of evidence substantiating his written submissions.

26. The Tribunal went on to consider the measures taken by Dr Zeng to remediate. It noted his reflections in which he stated:

‘... XXX.’

27. The Tribunal noted that Dr Zeng had taken swift action of his own volition XXX to try and remedy his behaviour, XXX himself to XXX 5 days after he was initially interviewed by the Police and 7 days after the incident which led to this conviction. The Tribunal further accepted that Dr Zeng self-referred to the GMC in a timely manner, XXX, completed a probity

and ethics course and made very early admissions. It was mindful of his statement in which he stated:

‘Through engagement with XXX and self-reflection, I have gained critical insight into the contributing factors leading to my offence. I believe the overarching factor leading to my offence is of an emotional origin and failure to self-regulate my emotions, thoughts and behaviour. This led to my compulsive reliance on anti-social methods of meeting emotional and intimate needs, which were entirely inappropriate, I realise. I have worked very hard to work through my maladaptive behaviour.’

28. The Tribunal determined that Dr Zeng’s behaviour could be remedied but that it did not have evidence of full remediation. The Tribunal noted that the nature of the offence was a result of a compulsive action by Dr Zeng. It had regard to Dr Zeng’s statement:

‘Ultimately, an escalating behaviour pattern with compulsive/ obsessive thoughts, as a consequence of poor emotional insight and self-regulation, led to all logic and rationality being disregarded. I have sought to address this, and reduce the risk of repetition.’

29. The Tribunal had regard to XXX.

30. The Tribunal noted that the actions which led to the conviction were said to be linked to Dr Zeng’s XXX. The Tribunal determined that in view of the compulsive nature of the behaviour giving rise to the conviction, and the 2023 sentencing remarks of there being a low risk of reoffending, it could not be assured that there was no risk of repetition.

31. The Tribunal considered the overarching objective and reminded itself that doctors are public-facing professionals who hold a position of trust. There is a need to maintain public confidence by promoting and maintaining proper professional standards and conduct. The Tribunal found that the gravity of Dr Zeng’s offence, notwithstanding that it was remediable, and he had made progress towards showing remediation, necessitated a finding of impairment in the public interest in order to maintain public confidence in the profession and promote and maintain proper professional standards and conduct.

32. The Tribunal has therefore determined that Dr Zeng’s fitness to practise is currently impaired by reason of his conviction.

Determination on Sanction - 28/02/2024

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

The Evidence

2. The Tribunal has taken into account all the evidence received during the earlier stages of the hearing, where relevant, in reaching a decision on sanction. The Tribunal received no further evidence at this stage from the GMC or Dr Zeng.

Submissions

3. On behalf of the GMC, Ms Goring referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (SG) and reminded the Tribunal of the overarching objective, which includes protecting the health, safety and wellbeing of the public, promoting and maintaining public confidence in the medical profession and promoting and maintaining proper professional standards and conduct for the members of the profession. She took the Tribunal to the paragraphs within the SG which state that the main reason for imposing sanctions is to protect the public. She also directed the Tribunal to the relevant section of the SG which indicates that more serious action is likely to be appropriate in cases involving sexual offences.

4. Ms Goring submitted that the only proportionate and reasonable sanction in this case is one of erasure on the basis of Dr Zeng's conviction. She submitted that it would not be appropriate for the Tribunal to conclude the case with no action, as there were no exceptional circumstances to justify this. She further submitted that neither undertakings nor conditions would be appropriate or workable in this case due to the serious nature of Dr Zeng's criminal conviction; the offence is unrelated to his work and there is no evidence to suggest that conditions could be formulated to address his behaviour which occurred in his own home. Ms Goring submitted that a period of suspension would be an inappropriate and insufficient sanction to mark the nature and seriousness of Dr Zeng's conviction. Ms Goring submitted that Dr Zeng's conduct was fundamentally incompatible with continued registration and a period of suspension would not be sufficient to meet the public interest. Ms Goring invited the Tribunal to conclude that Dr Zeng's conviction of voyeurism is so serious that the only appropriate and proportionate sanction in this case would be erasure from the medical register.

5. Ms Goring reminded the Tribunal that, although Dr Zeng has expressed remorse for his actions as a result of his conviction, he is registered on the Sex Offenders Register for a

period of five years until May 2028. She submitted that a registered sex offender requires the most serious sanction and cannot remain on the medical register by virtue of that fact. Ms Goring submitted that suspension would not serve the public interest sufficiently in this case. She directed the Tribunal to paragraph 108, 109(f) and 150 of the SG and submitted that erasure is the only appropriate sanction.

6. Ms Goring reminded the Tribunal of the aggravating factors in this case. She submitted that there were multiple victims involved in Dr Zeng's criminal offending and there was significant harm caused in relation to some of the victims. She reminded the Tribunal of the victim personal statements in which they discussed the significant impact that Dr Zeng's offence has had on their lives. Ms Goring reminded the Tribunal of the police evidence which confirmed that Dr Zeng set up the video camera XXX. She submitted that Dr Zeng's actions were premeditated and that there was a clear breach of trust, in that XXX were unknowingly using the facilities XXX and being recorded.

7. As Dr Zeng was neither present nor represented at the hearing, Ms Goring presented the Tribunal with some potential mitigating factors in this case. She submitted that prior to this offence, Dr Zeng had no previous convictions or previous findings in relation to his fitness to practice. She also submitted that Dr Zeng has engaged in a limited way with these proceedings, and, in the course of his police interview, he offered an apology. Ms Goring submitted that Dr Zeng made admissions to the police and entered a guilty plea at the criminal courts and made admissions via his written submissions. She submitted that Dr Zeng has taken steps to remediate his behaviour and the Tribunal has already found that he has some insight.

8. Ms Goring submitted that, notwithstanding these limited mitigating factors, Dr Zeng's offence was so severe that it is fundamentally incompatible with continued registration, and that erasure was the only appropriate sanction in this case to uphold the public confidence in the profession.

Relevant Legal Principles and the Tribunal's Approach

9. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgment. The Tribunal is required to consider the least restrictive sanction first before going on to consider more serious sanctions. In reaching its decision, the Tribunal has taken account of the Sanctions Guidance (November 2020) and the Statutory Overarching Objective.

10. Throughout its deliberations, the Tribunal has applied the principle of proportionality balancing Dr Zeng’s interests with the wider public interest. It considered its decision on facts and impairment and it took those determinations into account during its deliberations on sanction.

11. The LQC reminded the Tribunal that the purpose of a sanction is not to be punitive, although it may have a punitive effect. The Tribunal also had regard to paragraph 117 of the SG:

‘117. However, the tribunal should bear in mind that the sentence or sanction previously imposed is not necessarily a definitive guide to the seriousness of the offence. There may have been personal circumstances that led the court or regulatory body to be lenient. For example, the court may have expressed an expectation that the regulatory body would erase the doctor. Similarly, the range of sanctions and how they are applied may vary significantly amongst other regulatory bodies.’

12. The Tribunal reminded itself that cases involving sexual offences are likely to indicate that more serious action is likely to be required and had regard to paragraph 150 of the SG:

150 Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.

13. The LQC referred the Tribunal to paragraph 154, 155 and 156 of the SG:

***154** The tribunal should be aware that any conviction relating to child sex abuse materials will lead to registration as a sex offender and possible inclusion on the Children’s Barred List by the Disclosure and Barring Service under the Safeguarding Vulnerable Groups Act 2006 (as amended).³⁴ The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. The tribunal will therefore need to make sure that, in cases where it imposes a period of suspension or conditions, the case is reviewed before the end of this period to consider whether a further period is appropriate.*

***155** To protect the public, the tribunal should consider whether any conditions it imposes should stipulate no contact with any patients while the doctor is registered*

as a sex offender. (Doctors may of course be registered as sex offenders following other sexual offences not related to child sex abuse materials.)'

156 The tribunal should also consider whether doctors registered as sex offenders should be required to undergo assessment (eg by a clinical psychologist) to evaluate the potential risk they pose to patients before they may be permitted to resume any form of practice

The Tribunal's Determination on Sanction

14. The Tribunal considered whether there are any mitigating and aggravating factors and the weight, if any, that should be attached to these factors.

Aggravating Factors

15. The Tribunal identified the following aggravating factors:

- Dr Zeng's conviction was serious and involved a sexual offence;
- There were six victims involved and harm was caused towards these victims;
- The offence was premeditated and there was a clear breach of trust.

Mitigating Factors

16. The Tribunal was able to identify some mitigating factors:

- Dr Zeng made early admissions to the offence and entered into a guilty plea at the criminal courts at the earliest opportunity he also made admission to the allegations against him in his written submissions;
- The Tribunal noted the sentencing remarks in which the Judge stated that Dr Zeng showed genuine remorse and also that Dr Zeng has expressed his apology to the victims;
- Dr Zeng has taken steps to prevent the behaviour from recurring. XXX;
- The Tribunal noted that 2 years and 3 months have passed since the incident and there is no evidence of any repeated behaviour.
- Dr Zeng has had no previous findings in relation to his fitness to practise and no previous convictions. Dr Zeng has previous good character.
- Dr Zeng has engaged in a limited way with the GMC in these proceedings;

17. The Tribunal reminded itself that it found that Dr Zeng had shown some insight and had taken steps to remediate his behaviour at impairment stage.

18. The Tribunal noted that there was multisource feedback commenting on Dr Zeng's professional and personal qualities. However, the Tribunal noted that these testimonials were prepared in advance of Dr Zeng's conviction and therefore without prior knowledge of them. The Tribunal gave little weight to this multisource feedback as a mitigating factor for the sexual offence for which Dr Zeng has been charged.

19. The Tribunal had consideration to the particular circumstances leading up to the event and noted that Dr Zeng stated within his written submissions:

'Stress and isolation from training – I moved to Newcastle in 2020 for my training in Radiology, without any family or friends in the region. The isolation from this and from COVID restrictions, together with job stress (exams, constant travel for training rotations), led to the escalation of viewing content relating to and fantasizing about voyeurism to escape/ self-medicate.'

20. The Tribunal considered that as it was not given the opportunity to ask questions of Dr Zeng nor was it provided with any evidence to support these statements it could not attach much weight to these circumstances as it could not connect the facts of the offence with the circumstances leading up to the offence.

No action

21. In reaching its decision as to the appropriate sanction, if any, to impose in Dr Zeng's case, 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.

22. The Tribunal determined that there were no exceptional circumstances in this case. It considered that, given the seriousness of the conviction and its findings of impaired fitness to practise, taking no action would not be appropriate, proportionate or in the public interest.

Undertakings

23. The Tribunal noted that undertakings have not been offered or agreed in this case as it is not appropriate.

Conditions

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

25. The GMC submitted that there are no suitable conditions in this case that would be suitable to address the type of offending behaviour that gave rise to Dr Zeng's conviction.

26. The Tribunal concluded that given the extremely serious nature of Dr Zeng's offence, conditions would not be sufficient, appropriate or proportionate. The Tribunal concluded that an order of conditions would not adequately maintain trust and confidence in him as a doctor or in the medical profession as a whole.

Suspension

27. The Tribunal then went on to consider whether to impose a period of suspension on Dr Zeng's registration. The Tribunal reminded itself of the guidance at Paragraph 92, 93 and 97 (a) of the SG:

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.*

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

a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest.

However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.

...

28. The Tribunal considered that Dr Zeng's actions which led to the conviction were a serious departure from the principles set out in GMP and the professional standards that members of the profession must uphold. The Tribunal considered that members of the public would be appalled by the knowledge that a medical practitioner had committed such an offence.

29. The Tribunal then went on to consider whether Dr Zeng's conduct was fundamentally incompatible with continued registration. It took account of the aggravating factors it had identified and had regard to paragraph 93 of the SG which states that suspension may be appropriate where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The Tribunal noted its previous determination at impairment that it could not be assured there was no risk of repetition as it did not have any supporting evidence.

30. The Tribunal noted Ms Goring's submissions that 'a doctor on the sex offenders register cannot remain on the (medical) register' however in considering the guidance at 154 – 156 it noted that there was a proper inference which could be drawn to indicate that this was incorrect. The Tribunal concluded that a person on the sex offenders register could not have unrestricted registration.

31. The Tribunal accepted Ms Goring's submissions that this was a serious offence and a serious breach of trust but concluded that the offence itself is not fundamentally incompatible with continued registration. The Tribunal had regard to the mitigating factors: that this offence related to one incident; that Dr Zeng had taken swift action to start to remediate and that he had no history of proceedings against him. It was the Tribunal's view that the actions could be remedied and that Dr Zeng, given time, may be able to develop further insight, gain additional and continued support into the circumstances leading up to his criminal conviction and take steps to fully remediate his conduct. The Tribunal determined that a period of suspension would be proportionate and sufficient to provide Dr Zeng with an opportunity to fully remediate and to evidence his remediation.

32. The Tribunal also considered that suspension would properly mark the seriousness with which the Tribunal viewed Dr Zeng's conduct and the fact that he is registered on the Sex Offenders Register for a period of five years until May 2028. It determined that a period of suspension would appropriately protect patients and the public interest, and maintain and uphold professional standards. Further, a period of suspension would send out a clear

message to the public, the medical profession and Dr Zeng that this type of behaviour is not acceptable.

Erasure

33. In view of the seriousness of Dr Zeng's offence, the Tribunal also carefully considered whether erasure would be an appropriate sanction. The Tribunal considered paragraphs 107 – 109 of the SG, particularly 109 (a) and (f):

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

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

...

f Offences of a sexual nature, including involvement in child sex abuse materials (see further guidance below at paragraphs 151 - 159)

34. Dr Zeng's behaviour was a serious departure from GMP. The Tribunal was of the view that despite the serious nature of his offence, which involved a great breach of trust, Dr Zeng's actions were not fundamentally incompatible with his continued registration on the medical register. The Tribunal noted paragraph 156 of SG which stated that tribunals should consider whether doctors registered on the sex offenders should be required to XXX before they may be permitted any form of practice and concluded that given the attempts at remediation which Dr Zeng had started, he should be provided with an opportunity to be evaluated and his risk formally assessed.

35. The Tribunal therefore determined that a period of suspension was the appropriate and proportionate sanction in this case.

Length of suspension

36. In determining the length of the suspension, the Tribunal had regard to paragraphs 99 – 102 of the SG.

37. The Tribunal considered the seriousness of Dr Zeng's conviction and had regard to the matters set out in the table following paragraph 102 within the SG which deals with the

factors to be taken into account when determining the length of a suspension. In light of its previous findings, it considered the following to be relevant factors:

- The fact that the doctor’s behaviour marked a serious departure from the principles of GMP;
- The doctor’s actions risked public confidence in both the doctor and the reputation of the profession;
- The seriousness of the doctor’s inappropriate behaviour.

38. When considering the question of proportionality, the Tribunal considered that the length of suspension should recognise the seriousness of Dr Zeng’s conviction and be sufficient to maintain public confidence and uphold proper professional standards of behaviour.

39. Having considered all the evidence before it, the Tribunal determined that a period of twelve months suspension is appropriate and proportionate in this case.

Review

40. Paragraphs 163 of the SG deals with review hearings and states:

‘163 It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.’

41. The Tribunal has determined to direct a review of Dr Zeng’s case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing the onus will be on Dr Zeng’s to demonstrate evidence of his insight and remediation.

42. It therefore may assist the reviewing Tribunal to receive evidence from Dr Zeng of the following:

- Formal assessment of Dr Zeng’s risk to patients, colleagues and the public as a result of his voyeurism and continued registration on the Sex Offenders Register;
- Dr Zeng’s insight into the impact of his actions on the public interest and public confidence in the medical profession by further reflection following the Tribunal’s findings;

- Evidence from Dr Zeng’s that he has maintained his medical knowledge and skills during the period of suspension;
- Information of any strategies that Dr Zeng’s may be able to use to prevent the offence, or a similar offence, from reoccurring;
- Updated testimonials.

Determination on Immediate Order - 28/02/2024

1. Having determined to suspend Dr Zeng’s registration for a period of twelve months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order of suspension.

Submissions

2. On behalf of the GMC, Ms Goring directed the Tribunal to the relevant paragraphs of the SG and submitted that an immediate order is necessary and appropriate in this case. Ms Goring advised the Tribunal that Dr Zeng was currently subject to an interim order of suspension.

3. Ms Goring submitted that in accordance with paragraph 172 of the SG the GMC seek an immediate order to uphold public confidence in the profession.

“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...”

4. Ms Goring submitted that immediate action must be taken to protect the public and maintain public confidence in the medical profession.

The Tribunal’s Determination

5. In reaching its decision, the Tribunal considered the relevant paragraphs of the Sanctions Guidance and exercised its own independent judgement. In particular, it took account of 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.*

6. The Tribunal decided to impose an immediate order of suspension on Dr Zeng's registration. It determined that such an order was necessary to protect members of the public and was in the public interest due to the seriousness of Dr Zeng's conviction and the circumstances leading up to it. The Tribunal took into account the need to balance Dr Zeng's interests against wider public interests.

7. This means that Dr Zeng'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.

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

9. That concludes this case.

ANNEX A – 26/02/2024

Application on Service and proceeding in absence

1. Dr Zeng is not present nor represented at this Medical Practitioners Tribunal ('MPT') hearing. The Tribunal had to consider firstly whether service had been properly effected as required by the General Medical Council (Fitness to Practise) Rules 2004 as amended ('The Rules') and the Medical Act 1983 ('The Act'). If it found service had been effected in accordance with the Rules, it would need to consider whether to proceed in Dr Zeng's absence.

Service

2. Ms Georgina Goring, Counsel, on behalf of the General Medical Council ('GMC') made an application for the Tribunal to consider whether to proceed in absence in accordance with Rule 31 which provides:

'31. Where the practitioner is neither present nor represented at a hearing, the Committee or Tribunal may nevertheless proceed to consider and determine the allegation if they are satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with these Rules.'

3. Ms Goring submitted that notice of this hearing had been properly served to Dr Zeng. Ms Goring provided the Tribunal with a Service Bundle of documents evidencing that notice was properly served, which included but was not limited to:

- Screenshot of Dr Zeng's registered email address with the GMC;
- Notice of Allegation sent via email to Dr Zeng and his representative, Mr Lee Gledhill (from the Doctors Defence Service), on 10 January 2024;
- Chaser email from Ms B, GMC Legal Adviser, sent to Dr Zeng and Mr Gledhill on 22 January 2024;
- Emails from Dr Zeng and Mr Gledhill acknowledging receipt of the Notice of Allegation, both dated 22 January 2024;
- MPTS Notice of hearing sent via email to Dr Zeng and Mr Gledhill on 10 January 2024;
- Email from Dr Zeng acknowledging receipt of the Notice of hearing, dated 10 January 2024;
- Email from Mr Gledhill confirming that Dr Zeng will not be attending the hearing, nor will he be represented, dated 29 January 2024.

4. Ms Goring, submitted that service has been effected in accordance with Rule 40 of the Rules. She submitted that an email titled Notice of hearing 26 – 28 February 2024 was sent from the hearing preparation team to Dr Zeng’s registered email address copying in Mr Lee Gledhill who was at the time Dr Zeng’s representative. Ms Goring submitted that an email was sent to the GMC’s instructing solicitor confirming safe receipt, enclosing the doctors hearing bundle containing written submissions and stating that the doctor will not be attending the hearing and he will not be represented.

5. Having considered the evidence before it and the submissions made by Ms Goring, the Tribunal was satisfied that Notice of this Hearing had been served on Dr Zeng in accordance with Rule 15 and Rule 40 of the GMC (Fitness to Practise) Rules 2004 (the Rules), and paragraph 8 of Schedule 4 to the Medical Act 1983, as amended.

Proceeding in Absence

6. Having been satisfied that notice was properly served upon Dr Zeng, the Tribunal then considered whether to proceed with this hearing in his absence, in accordance with Rule 31 of the Rules.

7. Ms Goring submitted that the Tribunal should consider the following factors as set out in R v Jones [2003] 1 AC 1:

- The nature and circumstances of the doctor’s behaviour in absenting himself;
- Whether the behaviour was voluntary and therefore that the doctor waived the right to be present;
- Whether an adjournment would result in the doctor attending on a subsequent occasion;
- The likely length of any such adjournment;
- Whether the doctor, although absent, wished to be represented, or whether he had waived his right to be represented;
- The general public interest.

8. Ms Goring submitted that the Tribunal should proceed in Dr Zeng’s absence. She submitted that the Tribunal does not know why Dr Zeng is absent but that he has informed

the Tribunal that he would be absent. She further submitted that Dr Zeng has made no application for adjournment and has given no indication he would attend a future hearing.

9. Ms Goring submitted that Dr Zeng has had the benefit of legal representation whilst preparing for this hearing and that there is a very limited disadvantage in the doctor being unable to give evidence in this case. She submitted that Dr Zeng made admissions in the criminal courts by virtue of entering his guilty plea and the certificate of conviction provides evidence in relation to the facts stage of the case. She also submitted that Dr Zeng has provided written submissions and there is very little that is contested in this hearing.

10. Ms Goring submitted that there is a clear difference between criminal trials and disciplinary hearings. With disciplinary hearings the Tribunal must be guided by the overarching statutory objective, meaning that there should be a fair, economical, expeditious and efficient disposal of allegations. She further reminded the Tribunal that any such conviction against a registered doctor is a matter of grave concern because it involves such a fundamental breach of the public's trust in doctors and inevitably brings the profession into disrepute.

Tribunal's Decision

11. The Tribunal accepted the advice of the LQC who referred to the relevant Rules and judgments in the cases of R v Jones [2003] 1 AC 1; [2002] UKHL 5 and GMC v Adeogba [2016] EWCA Civ 163.

12. The Tribunal was mindful that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution and with a regard to the overall fairness of the proceedings. In doing so, it considered the need to balance Dr Zeng's interests with the overarching statutory objective.

13. The Tribunal has evidence before it that Dr Zeng was aware of this hearing taking place between 26-28 February 2024. The Tribunal determined that Dr Zeng has chosen to voluntarily absent himself from this hearing. Furthermore, it has not received any indication that Dr Zeng has requested an adjournment. The Tribunal could not be satisfied that, were there to be an adjournment, Dr Zeng might attend a hearing on a future date.

14. The Tribunal noted that Dr Zeng has had the assistance of his legal representative in producing his submissions and preparing his bundle. Furthermore, it was confident that Dr Zeng would have been appraised of the implication of not attending and this was evidenced

by his written submissions that he expected the hearing to continue in his absence. There was no evidence before the Tribunal to suggest that Dr Zeng would provide any further information or documentation if the hearing was to adjourn to a later date.

15. The Tribunal has balanced Dr Zeng's interests with the public interest in deciding whether to proceed in his absence. The Tribunal concluded that it is in the public interest and in the interests of justice to proceed with this hearing today.

16. Accordingly, the Tribunal determined that it was fair and reasonable to proceed in Dr Zeng's absence in accordance with Rule 31.