

PUBLIC RECORD

Date: 30/05/2023

Medical Practitioner's name: Dr Henry ALAVA VERZOLA
GMC reference number: 7117758
Primary medical qualification: D Med 1999 Catholic University of Santiago de Guayaquil

Type of case	Outcome on impairment
Review - Misconduct	Impaired
Review - Deficient professional performance	Impaired

Summary of outcome
Suspension, 12 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr David Urpeth
Lay Tribunal Member:	Mrs Joy Hamilton
Medical Tribunal Member:	Dr Shehleen Khan
Tribunal Clerk:	Ms Angela Carney

Attendance and Representation:

Medical Practitioner:	Not present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Ms Fiona Wise, Counsel, instructed by GMC Legal

Attendance of Press / Public

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

Overarching Objective

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

Determination on Impairment - 30/05/2023

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Alava Verzola's fitness to practise is impaired by reason of misconduct and deficient professional performance.

The Outcome of Applications Made during the Impairment Stage

2. The Tribunal granted the GMC's application, made pursuant to the Rules, that, service had been effected and to proceed in Dr Alava Verzola's absence. The Tribunal's full decision on the application is included at Annex A.

Background

3. Dr Alava Verzola qualified in 1999 from the Catholic University of Santiago de Guayaquil and at the time of the events, Dr Alava Verzola was practising as a Foundation Year 2 ('FY2') doctor in Medicine for Older Persons at Portsmouth Hospitals NHS Trust ('the Trust') having joined the Trust in August 2018. In addition, Dr Alava Verzola was working as a locum doctor for Medecho Ltd.

4. The facts found proved at Dr Alva Verzola's hearing which took place in May 2022 (the 2022 Tribunal) can be summarised as follows. In October 2018, following concerns raised about his clinical ability, Dr Alava Verzola's role was made supernumerary with a supervision requirement and he was not allowed to work night and weekend shifts. Dr Alava Verzola left the Trust on or around 30 June 2019.

5. The 2022 Tribunal found proved that on four occasions in June 2019, Dr Alava Verzola worked locum shifts at Barking, Havering and Redbridge University Hospitals NHS Trust ('BHRUH') and failed to inform BHRU that his position at the Trust was supernumerary and he was subject to supervision in response to concerns regarding performance.

6. The 2022 Tribunal found proved that on three occasions in May 2019 Dr Alava Verzola worked locum shifts at Bedfordshire Hospitals NHS Foundation Trust ('BH') and failed to inform BH that his position at the Trust was supernumerary and he was subject to supervision in response to concerns regarding performance.

7. The 2022 Tribunal found proved that on six occasions between April 2019 and July 2019 Dr Alava Verzola worked locum shifts at Western Sussex Hospitals NHS Foundation Trust ('WSH') and failed to inform WSH that his position at the Trust was supernumerary and he was subject to supervision in response to concerns regarding performance.

8. The 2022 Tribunal found proved that Dr Alava Verzola worked at St Helens and Knowsley Teaching Hospitals NHS Trust ('SHKTH') between 5 and 18 August 2020 whilst he was subject to an MPTS interim order of conditions and failed to ensure he was directly supervised and failed to notify the responsible officer, his immediate line manager and the senior clinician at SHKTH of the interim condition that he had to be directly supervised.

9. The 2022 Tribunal found proved that on 3 and 4 May 2019, Dr Alava Verzola worked locum shifts at Worthing Hospital, XXX, and failed to inform Worthing Hospital. It also found proved that Dr Alava Verzola worked a number of locum shifts for Medecho Ltd during May 2019 while on sick leave from the Trust.

10. Following concerns raised about Dr Alava Verzola's clinical performance he undertook a GMC assessment of the standard of his professional performance in November 2019. The 2022 Tribunal found proved that Dr Alava Verzola's professional performance was unacceptable in the areas of:

- Maintaining Professional Performance;
- Assessment of Patients' Condition;
- Clinical Management; and
- Relationships with Patients.

11. The 2022 Tribunal also found proved that Dr Alava Verzola's professional performance was a cause for concern in the area of Working with Colleagues and that he scored 60.00% in the Knowledge Test which was below the standard set score of 67.21%.

12. In making its decision on misconduct, the 2022 Tribunal separated the facts found proved into three categories:

- Dr Alava Verzola's actions relating to being supernumerary at the Trust and subject to supervision in response to concerns regarding performance (paragraphs 1, 2, 5, 6, 9 & 10 of the Allegation);
- His actions regarding his Interim Order of conditions and work at SHKTH (paragraphs 13 to 16 of the Allegation); and

- His actions in working locum shifts whilst on sickness absence from the Trust (paragraphs 18a, 18bi, 19 and 20 of the Allegation),

Supernumerary/Supervision at the Trust

13. The 2022 Tribunal first considered whether Dr Alava Verzola's actions in not informing BHRUH, BH and WSH that his position at the Trust was supernumerary and subject to supervision, on the dates he worked locum shifts through Medecho, amounted to misconduct. It noted that no issue of misconduct arose solely in consequence of paragraphs 1, 5 and 9 of the Allegation as these were paragraphs which merely stated the dates upon which Dr Alava Verzola undertook locum shifts. Culpability arose when these paragraphs were considered in the context of him not having informed the three other trusts at which he had undertaken locum shifts of the limitations placed on him by the Trust.

14. The 2022 Tribunal found that Dr Alava Verzola was not under any formal regulatory instruction, beyond being '*urged*' by Dr E to inform his agency, and any trusts that he worked for directly, of his supernumerary status at the Trust. It also noted that Dr D had advised Dr Alava Verzola that he needed to tell his agency. The Tribunal took account of the general principles set out in GMP at paragraphs 66 and 68 and noted that while there was an obligation to share information about his current role, Dr Alava Verzola was following the advice of senior colleagues to share the information with his agency which he did.

15. The 2022 Tribunal considered that Dr Alava Verzola had been upfront and open with Medecho about the situation at the Trust and had been provided with evidence that Medecho was aware of the situation and had complied. It noted that the Medecho recruitment consultant with whom Dr Alava Verzola was liaising had expressed some disagreement with the Trust's assessment of Dr Alava Verzola, based on positive feedback from other trusts at which he had undertaken locum shifts. However, 2022 the Tribunal had not seen the evidence on which the agency had formed this view.

16. The 2022 Tribunal was of the view that these actions were below the expected standard as set out in GMP, which placed a wide personal obligation on the doctor. However, given the circumstances of this case, specifically Dr Alava Verzola's compliance with the advice of his supervisors at the Trust and disclosure to his locum agency, through which his locum positions were obtained, it determined that his conduct did not fall seriously below the requisite standard so as to amount to misconduct and therefore it did not consider impairment in relation to paragraphs 1, 2, 5, 6, 9 & 10 of the Allegation.

Interim Order of Conditions

17. The 2022 Tribunal next considered Dr Alava Verzola's conduct in respect of his Interim Order of Conditions (paragraphs 13 to 16 of the Allegation). The 2022 Tribunal found that Dr Alava Verzola had failed to ensure that he had direct supervision and had failed personally to ensure that the individuals at SHKTH in the specific roles identified in the conditions, were notified of the requirement for direct supervision. The 2022 Tribunal was satisfied that Dr Alava Verzola had not appreciated that he had an ongoing personal obligation to comply with the detailed provisions of his interim conditions and had believed that he had complied in

ensuring that his locum agency had made SHKTH aware of the conditions as a whole. However, in failing to comply with the interim order conditions the 2022 Tribunal was in no doubt that Dr Alava Verzola's conduct had fallen seriously below the professional standards expected of him as a doctor so as to amount to misconduct.

Sickness absence

18. The 2022 Tribunal next considered Dr Alava Verzola's conduct in relation to his sickness absences whilst working at the Trust. It noted that whilst it had found paragraphs 19 and 20 of the Allegation proved, no issue of misconduct arose solely in consequence of those paragraphs as these paragraphs merely stated the dates upon which Dr Alava Verzola undertook locum shifts through Medecho and was on sickness absence from the Trust. The 2022 Tribunal found that culpability arose when these paragraphs were considered in the context of paragraph 21, which the Tribunal had found not proved.

19. The 2022 Tribunal considered Dr Alava Verzola's actions in not reporting his XXX to Worthing Hospital when he worked there on 3 and 4 May 2019 (paragraphs 18a and 18bi of the Allegation). The 2022 Tribunal concluded that Dr Alava Verzola's actions in respect of the XXX on 3 and 4 May 2019 fell seriously below the expected standard, within the circumstances of this case, as to amount to misconduct.

Misconduct

20. The 2022 Tribunal went on to consider whether, as a result of the two instances of misconduct it had found, Dr Alava Verzola's fitness to practise was impaired. The 2022 Tribunal noted that there had been no contact from Dr Alava Verzola in the previous 12 months. It was of the view that Dr Alava Verzola had demonstrated limited insight in his previous correspondence and very limited evidence to show that he had made any effort to remediate his conduct. It concluded that the risk of repetition remained high. The 2022 Tribunal considered that Dr Alava Verzola's actions put patients at potential risk of harm, both from the non-disclosure of his need for direct supervision set out in his conditions and from him working following a period of XXX. The 2022 Tribunal also concluded that his conduct in respect of his interim order of conditions had the potential to bring the medical profession into disrepute. In both matters of misconduct, the 2022 Tribunal determined that there was the potential to undermine public confidence in the profession and the maintenance of professional standards for doctors. The 2022 Tribunal found that all three limbs of the overarching objective were engaged and determined that Dr Alava Verzola's fitness to practise was impaired by reason of his misconduct.

Deficient Professional Performance

21. The 2022 Tribunal accepted the findings in the GMC assessment report that Dr Alava Verzola's performance was '*unacceptable*' in the areas of:

- Maintaining Professional Performance
- Assessment of Patients' Condition
- Clinical Management and
- Relationships with Patients.

22. In addition, the 2022 Tribunal accepted Dr Alava Verzola's performance was a '*cause for concern*' in the area of Working with Colleagues.
23. The 2022 Tribunal concluded that Dr Alava Verzola's performance fell so far short of the standards of performance reasonably to be expected of a doctor of his level as to amount to deficient professional performance.
24. The 2022 Tribunal noted that while Dr Alava Verzola had provided the GMC with a significant amount of Continuing Professional Development ('CPD') in 2019 and 2020, he had not provided anything in the 12 months prior to the hearing to demonstrate that he had continued to remedy his deficient professional performance.
25. The 2022 Tribunal was satisfied that Dr Alava Verzola's fitness to practise was impaired by reason of his deficient professional performance and was of the view, given the number and level of deficiency found, that public confidence in the profession would be undermined if a finding of impairment had not been made.
26. The 2022 determined that to take no action would not be sufficient, proportionate or in the public interest.
27. The 2022 Tribunal considered that Dr Alava Verzola's case also involved misconduct. The misconduct included a failure to comply with Interim order conditions which gave rise to concerns for patient safety and a risk of repetition. Furthermore, the 2022 Tribunal was not satisfied that an order of conditions would sufficiently mark the gravity of the issues that had led to its finding of misconduct, nor the serious deficiency in professional performance. Nor was it satisfied that Dr Alava Verzola would comply with an order of conditions at this stage.
28. The 2022 Tribunal concluded that Dr Alava Verzola had shown the potential to demonstrate insight and was of the view that the misconduct and his professional performance deficiencies were serious but could be remediated. The 2022 Tribunal decided that this case was not one where the misconduct was '*fundamentally incompatible with continued registration*' and rejected erasure, given that there is scope for Dr Alava Verzola to remediate the performance concerns, and reflect and gain further insight into his misconduct. Whilst the 2022 Tribunal considered that Dr Alava Verzola had been insufficiently attentive to the detail of his conditions and professional standards, it was not of the view that he had deliberately or recklessly disregarded either the principles set out in GMP or patient safety. The 2022 Tribunal did not consider that Dr Alava Verzola had demonstrated a persistent lack of insight into his actions and their consequences.
29. The 2022 Tribunal was satisfied that a period of suspension would allay patient safety concerns and ensure public protection. Additionally, it considered that suspension would have a sufficiently deterrent effect of sending a signal to Dr Alava Verzola, the profession and the public that his misconduct was unbecoming of a registered doctor. The 2022 Tribunal was satisfied that suspension was the appropriate and proportionate response and would satisfy

all three limbs of the statutory overarching objective. The 2022 Tribunal imposed an order of suspension for a period of 12 months was required and directed a review.

30. The 2022 Tribunal suggested that the reviewing Tribunal may be assisted if Dr Alava Verzola provided the following:

- A detailed written reflection on his misconduct, particularly dealing with his understanding and appreciation of the personal duties and responsibilities that he is subject to or that are imposed on him by his regulator;
- Evidence that he has maintained his medical skills and knowledge;
- Evidence of a clinical attachment, mentoring, workplace shadowing or similar;
- An up-to-date GMC Performance Assessment and Report: and
- Any other information that Dr Alava Verzola considers will assist the reviewing tribunal.

The Evidence

31. The Tribunal has taken into account all the documentary evidence received which included but was not limited to:

- Record of Determination of the MPT hearing dated 3-19 March 2022
- Correspondence between Dr Alava Verzola and the GMC from July 2022 to April 2023

Submissions

32. On behalf of the GMC, Ms Wise submitted that Dr Alava Verzola's fitness to practise is impaired today by reason of his misconduct and deficient professional performance. She reminded the Tribunal that there has been no evidence to address the deficiencies identified. She referred the Tribunal to paragraph 164 of the Sanctions Guidance (the SG) which states that a review hearing is necessary so that the Tribunal can consider whether the doctor has shown all of the following:

- a. they fully appreciate the gravity of the offence
- b. they have not reoffended
- c. they have maintained their skills and knowledge
- d. patients will not be placed at risk...

33. Ms Wise submitted that there is no evidence to demonstrate that Dr Alava Verzola has taken any steps required to improve his misconduct and deficient professional performance. She said that Dr Alava Verzola failed to respond to any correspondence from the GMC, including the direction by an Assistant Registrar to undergo a performance assessment. In all the circumstances Ms Wise submitted that Dr Alava Verzola's fitness to practise is impaired today by reason of his misconduct and deficient professional performance.

The Relevant Legal Principles

34. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

35. This Tribunal must determine whether Dr Alava Verzola's fitness to practise is impaired today, taking into account his conduct and deficient professional performance at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

Misconduct and Deficient Professional Performance

36. The Tribunal noted that Dr Alava Verzola did not attend the substantive hearing in May 2022 and has not engaged with the GMC since. The Notice of Allegation had been signed for and the Tribunal was satisfied that Dr Alava Verzola is aware of this review hearing. It has received no evidence that Dr Alava Verzola has gained insight, remediated his misconduct and addressed his deficient professional performance. The burden is on Dr Alava Verzola to demonstrate that he is fit to practise.

37. The Tribunal noted that Dr Alava Verzola has failed to respond to correspondence and failed to undertake a performance assessment as directed by the GMC's Assistant Registrar which could have informed this Tribunal's decision making.

38. The only information this Tribunal has before it is the findings of the 2022 Tribunal and Dr Alava Verzola's lack of engagement

39. The Tribunal could not be satisfied that Dr Alava Verzola fully appreciates the gravity of his misconduct and deficient professional performance. It could not be satisfied that he has not repeated his misconduct or that he has addressed the deficiencies in his professional performance identified. The Tribunal has no evidence that Dr Alava Verzola has maintained his clinical skills and cannot be satisfied that patients will not be placed at risk. Further, given Dr Alava Verzola misconduct and the number deficiencies found and their level, public confidence in the profession would be undermined if a finding of impairment was not made.

40. The Tribunal determined that all three limbs of the overarching objective remain engaged.

41. Accordingly the determined that Dr Alava Verzola's fitness to practise is impaired by reason of misconduct and deficient professional performance.

Determination on Sanction - 30/05/2023

42. Having determined that Dr Alava Verzola's fitness to practise is impaired by reason of misconduct and deficient professional performance, 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

43. The Tribunal has considered all documents and taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

Submissions

44. On behalf of the GMC, Ms Wise submitted that there are no exceptional circumstances in this case. She highlighted that Dr Alava Verzola did not comply with his previous interim order of conditions.

45. Ms Wise submitted that nothing has changed and there is no evidence of any insight by Dr Alava Verzola. Further, as Dr Verzola has disengaged she submitted that conditions would not be appropriate.

46. Ms Wise submitted that a further period of suspension would be appropriate in this case.

The Tribunal's Approach

47. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement. The Tribunal is required to consider the least restrictive sanction first before going on to consider more serious sanctions.

48. In reaching its decision, the Tribunal has to take account of the SG and must consider the overarching objective. It must bear in mind that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect. The Tribunal has noted that all three limbs of the overarching objective were engaged in this case.

49. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Alava Verzola's interests with the public interest. The public interest includes, amongst other things, the protection of patients, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour.

50. The Tribunal has already given a detailed determination on impairment, and it has taken those matters into account during its deliberations on sanction.

The Tribunal's Determination on Sanction

51. The Tribunal was mindful that it is less able to take mitigating factors into account when the concern is about patient safety, or is of a more serious nature, than if the concern is about public confidence in the profession.

Aggravating and mitigating factors

52. The Tribunal could not identify any mitigating factors in this case.

53. In relation to the aggravating factors in this case the Tribunal noted Dr Alava Verzola has disengaged with his regulator and these proceedings. Further, the passage of time will have affected his clinical skills. Dr Alava Verzola's failure to undergo an Assistant Registrar's direction to undertake an assessment of his professional performance is viewed as aggravating.

No action

54. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Alava Verzola's case, the Tribunal first considered whether to conclude the case by taking no action.

55. The Tribunal considered that there are no exceptional circumstances in which it might be justified in taking no action against Dr Alava Verzola's registration.

56. The Tribunal determined that in view of the serious nature of Dr Alava Verzola's misconduct and deficient professional performance, it would not be sufficient, proportionate or in the public interest, to conclude this case by taking no action.

Conditions

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

58. Conditions are likely to be workable where a doctor has demonstrated insight and the doctor has the potential to respond positively to remediation. When deciding whether remediation is possible, the Tribunal needs to consider any objective evidence that has been submitted, for example assessments of the doctor's performance. Dr Alava Verzola has not engaged with the GMC since his substantive hearing in May 2022 or with these proceedings and therefore, there is no evidence available to his insight or any remediation.

59. The Tribunal noted that when Dr Alava Verzola previously had conditions, he breached them.

60. The Tribunal also noted that Dr Alava Verzola has failed to comply with the direction of the GMC’s Assistant Registrar to undergo a performance assessment and therefore it could not be satisfied that Dr Alava Verzola would comply with conditional registration.

61. Further, the Tribunal was of the opinion that, a period of conditional registration would not adequately reflect the serious nature of Dr Alava Verzola’s misconduct and deficient professional performance and was of the view that conditions could not be formulated which would protect the public interest and maintain public confidence in the medical profession.

62. The Tribunal has, therefore, determined that the factors which are present in Dr Alava Verzola’s case indicate that conditions are not appropriate at the current time.

Suspension

63. The Tribunal then went on to consider whether a period of suspension would address its concerns over patient safety, and adequately maintain public confidence in the profession and uphold proper standards for its members.

64. It noted Ms Wise’s submissions that a sanction of suspension would be appropriate in this case.

65. This Tribunal agreed with the 2022 Tribunal’s that Dr Alava Verzola had demonstrated some insight in his written comments to the GMC and had the potential to remediate his misconduct and deficient performance. It considered that Dr Alava Verzola’s misconduct was not *‘fundamentally incompatible with continued registration’* given his previous insight.

66. The Tribunal was concerned that Dr Alava Verzola has continued to disengage with his regulator and with these proceedings and has provided no further evidence of insight or that he has remediated his misconduct and deficient professional performance. In the Tribunal’s view Dr Alava Verzola’s lack of engagement raises significant patient safety concerns.

67. The Tribunal determined to suspend Dr Alava Verzola’s registration for the maximum period of 12 months. The Tribunal was satisfied that a further period of suspension would address the patient safety concerns and ensure public protection and would send a signal to Dr Alava Verzola, the profession and the public that his misconduct, deficient professional performance and his failure to engage with his regulator was unbecoming of a registered doctor. It was satisfied that the maximum suspension was an appropriate and proportionate response and would satisfy all three limbs of the statutory overarching objective.

68. The Tribunal considered that 12 months would allow Dr Alava Verzola’s time to remedy his misconduct and address the concerns regarding his deficient professional performance and time for him to undertake a further performance assessment which will allow a future Tribunal to assess whether he has remediated these failings

Review

69. The Tribunal determined to direct a review of Dr Alava Verzola's case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought either by Dr Alava Verzola or the GMC.

70. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Alava Verzola to demonstrate how he has developed insight, reflected on and remediated his misconduct, and taken steps sufficiently to improve his deficient professional performance. It therefore may assist the reviewing Tribunal if Dr Alava Verzola is able to provide:

- Evidence of improvement and engagement including a detailed written reflection on his misconduct, particularly dealing with his understanding and appreciation of the personal duties and responsibilities that he is subject to or that are imposed on him by his regulator;
- Evidence that he has maintained his medical skills and knowledge;
- Evidence of any clinical attachments, mentoring, workplace shadowing or similar;
- An up to date GMC Performance Assessment and Report: and
- Any other information that Dr Alava Verzola considers will assist the reviewing tribunal.

71. That concludes this case.

ANNEX A – 30/05/2023

Application on Service and proceeding in absence

72. Dr Alava Verzola is neither present nor represented today at this Medical Practitioners Tribunal ('MPT') hearing. The Tribunal therefore considered whether the relevant documents had been served in accordance with General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), and paragraph 8 of the fourth Schedule to the Medical Act 1983.

Submissions

73. Ms Wise told the Tribunal that Dr Alava Verzola has not engaged with the GMC since the last hearing. She submitted that the requirements of Rules 20 and 40 and paragraph 4 of the Medical Act had been satisfied. Ms Wise referred the Tribunal to the relevant documents relating to proof of service. She submitted that the Tribunal can be satisfied that service has been effected in accordance with the Rules.

74. Ms Wise said that all reasonable efforts have been made to contact Dr Alava Verzola. She noted that the previous Tribunal was satisfied that Dr Alava Verzola had voluntarily absented himself and stated that the burden is on the doctor to keep his registered address and contact details up to date. Ms Wise invited the Tribunal to proceed in Dr Alava Verzola's absence.

Service

75. The Tribunal took account of the screen shot of Dr Alava Verzola's registered address and considered that the Notice of Allegation letter had been emailed to Dr Alava Verzola on 24 February 2023. It noted that there was no response to this email so the Notice of Allegation letter was sent to Dr Alava Verzola's registered address on 25 February 2023 and was signed for on 1 March 2023. It noted that the GMC made further attempts to contact Dr Alava Verzola.

76. The Tribunal had evidence that the MPTS Notice of Hearing had been emailed to Dr Alava Verzola on 29 March 2023 and sent by recorded delivery to his registered address which was signed for on 1 April 2023.

77. The Tribunal took account of all documents provided and was satisfied that notice of this hearing had been served in accordance with Rules 20 and 40.

Proceeding in absence

78. As the Tribunal was satisfied that notice had been properly served on Dr Alava Verzola, the Tribunal then considered whether to proceed in his absence under Rule 31.

79. The Tribunal took account of principles in *R v Jones (2001) EWCA Crim 168*. The discretion to proceed in the absence of a doctor must be exercised with great caution, balancing the interests of the doctor with the wider public interest, including the need to proceed expeditiously.

80. The Tribunal noted that not engaged with the GMC since the previous hearing. It noted that Dr Alava Verzola has not applied for this hearing to be adjourned. The Tribunal considered that Dr Alava Verzola has voluntarily absented himself and there is no indication that he would attend a hearing in the future.

81. In all the circumstances, taking account of the relevant law and Rules, the Tribunal considered that there is a clear public interest in proceeding with the hearing and that it would not be unfair to Dr Alava Verzola to proceed in his absence. The Tribunal determined to proceed with this hearing in Dr Alava Verzola's absence.