

PUBLIC RECORD**Dates:** 18/03/2024 - 21/03/2024

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| Medical Practitioner's name: | Dr James CELAIRE | |
| GMC reference number: | 7752494 | |
| Primary medical qualification: | MB ChB 2020 University of Birmingham | |
| Type of case | Outcome on facts | Outcome on impairment |
| New - Conviction | Facts relevant to impairment found proved | Impaired |

Summary of outcome

Suspension, 9 months.
Immediate order imposed.

Tribunal:

| | |
|--------------------------|-------------------|
| Legally Qualified Chair | Mr Graham White |
| Medical Tribunal Member: | Dr Andy Cohen |
| Medical Tribunal Member: | Dr Obadah Ghannam |
| | |
| Tribunal Clerk: | Ms Fiona Johnston |

Attendance and Representation:

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| Medical Practitioner: | Present, represented |
| Medical Practitioner's Representative: | Ms Sarah Barlow, Counsel, instructed by Brabners |
| GMC Representative: | Ms Ceri Widdett, Counsel |

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in 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 - 20/03/2024

Background

1. Dr Celaire graduated with a Bachelor of Medicine from the University of Birmingham in May 2020 during the COVID-19 pandemic and was offered a two-year contract with Bradford and Calderdale NHS Trust as a junior doctor. He started working there as an FY1 junior doctor in June 2020.
2. The allegations that have led to Dr Celaire's hearing are as follows:
 1. On 21 July 2022 at Bradford Crown Court you were convicted of four counts of causing serious injury by dangerous driving, contrary to Section 1A of the Road Traffic Act 1988.
 2. On 30 November 2022 at Bradford Crown Court you were sentenced to:
 - a. 28 months' imprisonment; and
 - b. a disqualification from driving for 3 years

Events that lead to allegation

3. Dr Celaire usually worked in the renal department during the day. He was rotated around various wards during the night, which included working across the COVID wards. Shift patterns were highly variable, with 1 in 3 weeks having a 60-hour shift patterns. These hours were often exceeded due to workload demands. Dr Celaire's day shifts were usually 9am to 5pm and night shifts were 12-hours, from 8pm to 8am. He was also on call for emergencies within the hospital and to cover weekend shifts.
4. As a result of the pandemic, the workload has been described as unprecedented and relentless. There were no consultants working the night shifts. There might be two Registrars and a few juniors covering all the medical wards. The COVID wards were a difficult working environment.

5. On Wednesday 9 December 2020, Dr Celaire had completed his second night shift of that week. He had worked a 12-hour night shift from 8.00pm to 8.00am and had also worked nights the week before. After completing his handover of patients, Dr Celaire began his commute home from Bradford to Leeds. At around 8.20am, he was driving through Bradford along Hudson Avenue. Dr Celaire had described his last memory as seeing a zebra crossing with no-one on it. He told the Tribunal that he must have fallen asleep at the wheel. His vehicle veered to the right from behind a stationary line of traffic onto the opposite side of the road, hitting four pedestrians at the crossing, and colliding with a zebra crossing pole.

6. Dr Celaire caused serious injuries to two adults and two children aged four and six years. One adult suffered a broken shoulder, facial fractures and severe damage to the left leg which led to amputation of the left leg below the knee. Her 6-year-old child suffered a skull fracture and a broken leg which ended up shortened. Her 4-year-old child sustained a fracture of the left tibia. The second adult suffered a fractured leg, injury to her shoulder and bruising all over her body. She remained unconscious in hospital for three days after the accident.

7. The judges sentencing remarks referred, not only to significant physical injuries caused to the victims, but also, the significant long term psychological and financial implications for the victims and their families.

The Allegation and the Doctor's Response

8. The Allegation made against Dr Celaire is as follows:

1. On 21 July 2022 at Bradford Crown Court you were convicted of four counts of causing serious injury by dangerous driving, contrary to Section 1A of the Road Traffic Act 1988. **Admitted and found proved**
2. On 30 November 2022 at Bradford Crown Court you were sentenced to:
 - a. 28 months' imprisonment; **Admitted and found proved**
 - and
 - b. a disqualification from driving for 3 years.
Admitted and found proved

The Admitted Facts

7. At the outset of these proceedings, through his counsel, Ms Sarah Barlow, Dr Celaire made admissions to the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In

accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

IMPAIRMENT

8. 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 Dr Celaire's fitness to practise is impaired by reason of his conviction.

Documentary Evidence

9. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited to the Certificate of Conviction, Judge's sentencing remarks, witness statements, trial record sheet and Police report, approved Court of Appeal Judgment, Dr Celaire's witness statement dated 15 February 2024, Dr Celaire's reflection Statement dated 15 February 2024 and Dr Celaire's apology letter dated 29 November 2022 and CPD record. The Tribunal also read a number of written testimonials.

Witness Evidence

10. The Tribunal also heard oral evidence in support of Dr Celaire from a number of testimonial witnesses

- Professor A, consultant in Emergency Medicine at Calderdale and Huddersfield Foundation Trust;
- Ms B, XXX;
- Mrs C, Head Teacher of the Boyle and Petyt Primary School, Beamsley;
- Ms D, Retired Registered Nurse and Midwife;
- Dr E. Consultant, in Emergency Medicine at Bradford Teaching Hospitals NHS Foundation Trust.

11. In his addition to his witness statements, Dr Celaire gave oral evidence to the Tribunal.

Submissions

12. On behalf of the GMC, Ms Ceri Widdett submitted that Dr Celaire's fitness to practise is impaired by reason of his conviction. She referred the Tribunal to case of Cohen v General Medical Council [2008] EWHC 581 (Admin), CRHP v GDC and Fleischmann [2005] EWHC 87 Admin and GMC v Saeed [2020] EWHC 830 (Admin).

13. She submitted that Dr Celaire had provided great deal of evidence as to remediation and insight. She submitted that the sentencing Judge accepted there was a low risk of repetition. However, Dr Celaire had committed a grave offence.
14. Turning to aggravating factors she reminded the Tribunal that three of the people been injured had life changing injuries, one of them person losing a limb.
15. She submitted that Dr Celaire would have known that the area where the incident happened would have been busy. She said that he did not see a hazard sign 60 metres before the crossing. She submitted that Dr Celaire was aware there would be children around and he decided to drive home rather than stay at the hospital.
16. She submitted that Dr Celaire ought have been aware that his ability to drive home would be reduced due to his tiredness. She submitted that there has been evidence that Dr Celaire helped at the scene. She said this is not evidence of mitigation as it is something a doctor is expected to do.
17. Ms Widdett concluded that, in respect of Dr Celaire’s conviction, this was a case where a member of the public would be shocked if a finding of impairment was not made to mark the seriousness of the case.
18. On behalf of Dr Celaire, Ms Barlow conceded that, although this is not automatic, there is almost a presumption that in a case such as this, impairment will follow.
19. Ms Barlow referred the Tribunal to the case of Grant which she said would act as guidance on the issue whether the doctor has in the past acted or is liable in the future to put a patient at risk.
20. She submitted that it was his past behaviour that led to the conviction. Impairment is an exercise in looking forwards and not backwards. That has been observed and the question is whether the doctor is currently impaired.
21. She submitted that it was for the Tribunal to decide if public confidence in the profession would be undermined if it were not to make a finding of impairment in these circumstances.
22. She submitted that the underlying criminal offence is serious in itself and the aggravating features have been reflected quite firmly within the sentence and the sentencing

remarks. She also submitted that the conduct was marked by an undoubtedly severe sentence.

23. She submitted that there are significant mitigating features and Dr Celaire has tremendous insight into what occurred.

24. She submitted that there are few cases in which a doctor has shown quite such a level of insight or attempted to remediate his behaviour in the manner that Dr Celaire has, not just in terms of understanding what happened, but also in terms of his determination not to give up.

25. She submitted what that Tribunal should be looking at is in effect the seriousness of the conviction and its result and whether the public would demand that it is marked by a finding of impairment.

The Relevant Legal Principles

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

27. The Tribunal must determine whether Dr Celaire's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then, such as whether the matters are remediable, whether they have been remedied and whether there is any likelihood of repetition.

28. The Tribunal had regard to the case of *CHRE v NMC & Paula Grant* [2011] EWHC 927 (Admin), in which Mrs Justice Cox quoted from Dame Janet Smith's Fifth Shipman Report:

'Do our findings of fact in respect of the doctor's misconduct...show that his/her fitness to practise is impaired in the sense that s/he:

- 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 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.'*

29. The Tribunal was also advised to consider guidance on this matter provided in the case of *Cheatle v GMC* [2009] EWHC 645 (Admin), *Cohen v General Medical Council* [2008] EWHC 581 (Admin).

30. The Tribunal had particular regard to the sentencing remarks of His Honour Judge Rose dated 30 November 2022.

‘Whilst you did not make a deliberate decision to drive dangerously, you did make a deliberate decision to drive when it was not safe and, indeed, when it was dangerous to do so and when you knew or ought to have known that it was not safe and that it was dangerous to drive. The danger was, in my view, created when you decided to drive and not just at the moment when you executed the dangerous manoeuvre which resulted in the collision. That danger was, as I have indicated, undertaken unnecessarily for you could and should have taken a rest at your place of work where there was the facility to do so. ‘

The Tribunal’s Determination on Impairment

31. In reaching a decision on impairment, the Tribunal has borne in mind the statutory overarching objective, namely:

- 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.

32. The Tribunal reminded itself of the standards required of doctors by reference to GMP in force at the relevant time. Paragraph 1 and 65 of GMP states:

‘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

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

33. The Tribunal took account of the serious nature of the conviction for the offence listed in the Allegation. The Tribunal had regard to Dr Celaire’s personal statement and his acceptance of full responsibility for what he has done.

34. The Tribunal noted that Dr Celaire had admitted the charge in the criminal proceedings at the Crown Court stage and that, at this hearing, he admitted the Allegation and that his fitness to practise was impaired.

35. The Tribunal had regard to the offence set out within the Allegation and the details surrounding them. The Tribunal noted that Dr Celaire’s sentence does not expire until 30 March 2025. It also bore in mind the sentencing Judge’s observations. The Tribunal found that the conviction for dangerous driving and the events that led to it, namely a conscious decision to drive when he ought to have known he was unfit to do so had brought the profession into disrepute. Members of the public are entitled to expect doctors to behave responsibly and not break the law. Dr Celaire had seriously injured two adults and two children. The Tribunal accepted that his offence was particularly serious.

36. The Tribunal went on to consider the evidence and submissions on the issues of insight, remediation and the likelihood of repetition of the conduct in the future.

37. It considered that Dr Celaire’s conviction was potentially remediable. It noted it had been presented with strong evidence of remediation.

38. The Tribunal also took into account the letter from Dr Celaire’s probation officer dated 15 March 2024.

*‘For the attention of the Medical Practitioner’s Tribunal,
I have assessed that you pose a low risk of serious harm towards members of the public, which consist of other road users, including pedestrians. To clarify, low risk of serious harm means that current evidence does not indicate a likelihood of serious harm. Further risk categories include medium risk of serious harm, high risk of serious harm and very high risk of serious harm. Your current contact with the National Probation Service is once per month.
In terms of your compliance with supervision, you have been offered 10 appointments, and you have attended all 10 appointments, with no acceptable or unacceptable absences. During these appointments, we have completed work surrounding victim impact, thinking and behaviour and emotional well-being. I would assess that you have a clear understanding of the harm caused to the victims, and possess good problem-solving skills, awareness of consequences, and have no current problems surrounding impulsivity.
You have engaged in a very meaningful manner, appear as very motivated to complete your licence successfully, and continue to achieve your set goals in the community. As you are aware, we are currently in the process of exploring restorative justice, which if*

granted, would allow you the opportunity to speak with the victims and take responsibility for the harm caused.'

39. The Tribunal determined that Dr Celaire had fully remedied his conduct leading to his conviction, and repetition was highly unlikely to happen again.

40. The Tribunal considered whether there was significant evidence of insight by Dr Celaire into his conviction. The Tribunal had been provided with an insightful reflective statement and numerous positive testimonials. It concluded that he fully understands the gravity of his actions and has demonstrated insight into them. The Tribunal is in no doubt Dr Celaire deeply regrets his actions and is genuinely remorseful and has taken responsibility for his actions.

41. In concluding that the risk of repetition was low, the Tribunal also took into account the remarks by the sentencing judge:

'I am, of course, mindful of the personal mitigation in your case. Your exemplary character is something to which I've already referred and your work as a doctor during the pandemic and your general character are spoken to eloquently by those who have submitted references on your behalf. The pre-sentence report details the hours you worked as a junior doctor and the court is mindful of your role during those difficult times as well as the consequences of these offences and the likely sentence on your future. It is highly unlikely that you will ever offend again in the view of the author of the report and myself and it is understood that custodial sentence will undoubtedly be extremely difficult for you.'

42. The Tribunal has had regard to S1 Medical Act 1983 which sets out the need: to protect, promote and maintain the health, safety and wellbeing of the public; to promote and maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of the profession. Whilst this is not a case relating to patient safety, the Tribunal considered that a member of the public would be appalled to hear of a doctor causing such a grave accident. It had been serious enough as to warrant a sentence of imprisonment, and that in all the circumstances, confidence in the profession would be undermined if a finding of impairment were not made.

43. The Tribunal therefore found that Dr Celaire's fitness to practise is impaired by reason of his conviction.

Determination on Sanction - 21/03/2024

44. Having determined that Dr Celaire's fitness to practise is impaired by reason of his 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.

Submissions

On behalf of the GMC

45. Ms Widdett submitted that Dr Celaire's registration should be suspended in order to maintain public confidence in the profession and to maintain proper standards of conduct for members of the profession.

46. Ms Widdett referred the Tribunal to relevant paragraphs of the Sanctions Guidance ('SG') and went on to identify aggravating and mitigating features of the case.

47. She submitted they are no exceptional circumstances to justify taking no action and that conditional registration would not adequately reflect the gravity of the doctor's conduct. She said the Tribunal are effectively faced with a decision between suspension and erasure.

48. She submitted that there is no evidence of repetition or similar behaviour since the incident. The doctor has insight and does not pose a significant risk of repeating the behaviour.

49. She submitted with reference to paragraph 119 of the SG that the appropriate sanction in this case would be a 12-month period of suspension. She further submitted that as a general principle where a doctor has been convicted of a serious criminal offence or offences, they should not be permitted to resume unrestricted practice until they have completed their sentence.

As a general principle, where a doctor has been convicted of a serious criminal offence or offences, they should not be permitted to resume unrestricted practice until they have completed their sentence.

50. Ms Widdett once again reiterated the sentencing judge's remarks and referred the Tribunal to paragraph 109 of the SG on the matter of erasure.

51. Ms Widdett referred the Tribunal to paragraphs 91, 92, 93, 97 of the SG in relation to suspension.

52. With regard to a review hearing, she submitted that Dr Celaire is a junior doctor. He still needs support and therefore the review would allow him to show that his skills have been kept up to date.

On behalf of the Dr Celaire

53. Ms Barlow accepted that taking no action was not appropriate and it would not be possible to formulate conditions.

54. Ms Barlow invited the Tribunal to consider the positive factors in Dr Celaire's case, and submitted that suspension remained the appropriate and proportionate sanction at the current time.

55. Ms Barlow referred the Tribunal to the principles set out in *Council for the Regulation of Health Care Professionals v General Dental Council, Fleischmann* [2005] EWHC 87 (Admin) which provides:

'... as a general principle, where a practitioner has been convicted of a serious criminal offence or offences he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise. Such circumstances could arise in connection with a period of disqualification from driving or time allowed by the court for the payment of a fine.'

56. She submitted the principle set out in *Fleischmann* should not be applied as if it were a rule, but rather as a general principle. She said the guidance must bend to the overarching objective. The requirements is to impose a sanction which is just and proportionate, and only that which is necessary to maintain public confidence.

57. She submitted that Dr Celaire has demonstrated full remediation and insight in extremely difficult circumstances. However, this is an unusual case where one should draw back from a maximum of 12 months suspension.

58. Ms Barlow submitted that this is an exceptional case and the following mitigations should be considered:

- Full admission of guilt;
- Genuine remorse;
- Assistance at the scene;
- Full remediation and insight;
- Completion of probation work;
- Compliance;
- Incident linked to Covid stress and work commitments;
- Isolated incident;
- Support from others including senior colleagues prepared to offer immediate return to work if needed;
- Prepare to offer immediate return to work if needed;
- Extensive CPD and keeping skills UpToDate;
- Currently works in NHS with vulnerable patients;
- Restorative justice – offer to meet victims if they wish;
- Dr Celaire’s desire to raise awareness of post on call tiredness to the wider healthcare community.

59. She submitted the exceptional circumstances in this case would allow the Tribunal to depart from the Fleischmann principle. She said that once the Tribunal have departed from it then there would be no need to order a review. She further submitted that it would be wrong to direct a review simply to ensure compliance with the licence under his sentence.

60. Ms Barlow referred the Tribunal to the evidence from both Dr E and Professor A that there would be a plan for a phased and assistance return to work. She said that there is a job for the doctor, and it is in the field that he wishes to take forward.

18. She submitted that the GMC say that a review would allow him to demonstrate that his skills are up to date, but in truth there is no suggestion that they are not.

61. She submitted that there is a desire to get the doctor back into work and no suggestion that there is any issue with public safety at all. She said that this is a public interest case.

The Tribunal’s Determination on Sanction

The Relevant Legal Principles

62. The Tribunal reminded itself that the decision as to the appropriate sanction to impose, if any, was a matter for it alone, exercising its own judgment. In reaching its decision on sanction, the Tribunal had regard to the SG. It bore in mind that the purpose of a sanction

is not to be punitive, but to protect patients and the wider public interest, although it noted that any sanction imposed may have a punitive effect. It reminded itself that in deciding what sanction, if any, to impose, it should consider the sanctions available, starting with the least restrictive.

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

The Tribunal's Determination on Sanction

64. The Tribunal first identified what it considered to be the aggravating and mitigating factors in this case.

Aggravating

65. The Tribunals identified no specific aggravating factors beyond the inherent seriousness of the accident itself and the tragic impact on the victims and their families.

Mitigating

66. The Tribunal noted that Dr Celaire has fully cooperated with the regulatory process. He has addressed the serious concerns arising from his conduct. He gave clear and compelling evidence to the Tribunal at this stage of the proceedings in which he recognised and apologised for his actions and accepted full responsibility. In his evidence he demonstrated that he had reflected on the events that had brought him before this Tribunal. It was satisfied that Dr Celaire has undertaken extensive remedial action and has full insight.

67. The Tribunal acknowledged at the time of the incident that Dr Celaire was wholly dedicated to his patients. The Tribunal took into account the statement made by the Court of Appeal:

'the appellant's decision to drive in the circumstances in which he did so, namely when he was tired, appears to have arisen from his commitment to his medical duties, and that the manner of his driving is no reflection of his professional abilities.'

68. The Tribunal noted that Dr Celaire has been fully compliant with the probation service. It took into account a letter from the probation service dated 15 March 2024:

'I have assessed that you pose a low risk of serious harm towards members of the public, which consist of other road users, including pedestrians. To clarify, low risk of serious harm means that current evidence does not indicate a likelihood of serious harm. Further risk categories include medium risk of serious harm, high risk of serious harm and very high risk of serious harm. Your current contact with the National Probation Service is once per month.

In terms of your compliance with supervision, you have been offered 10 appointments, and you have attended all 10 appointments, with no acceptable or unacceptable absences. During these appointments, we have completed work surrounding victim impact, thinking and behaviour and emotional well-being. I would assess that you have a clear understanding of the harm caused to the victims, and possess good problem-solving skills, awareness of consequences, and have no current problems surrounding impulsivity.

You have engaged in a very meaningful manner, appear as very motivated to complete your licence successfully, and continue to achieve your set goals in the community. As you are aware, we are currently in the process of exploring restorative justice, which if granted, would allow you the opportunity to speak with the victims and take responsibility for the harm caused..'

69. The Tribunal has also been presented with wide ranging testimonials from colleagues, other professionals, acquaintances and family. All attested to his good character and exceptional performance as a doctor.

No action

70. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Celaire's case, the Tribunal first considered whether to take no action.

Paragraph 68 – 70 of the SG state:

"68 Where a doctor's fitness to practise is impaired, it will usually be necessary to take action to protect the public (see paragraphs 14–16). But there may be exceptional circumstances to justify a tribunal taking no action.

69 To find that a doctor’s fitness to practise is impaired, the tribunal will have taken account of the doctor’s level of insight and any remediation, and therefore these mitigating factors are unlikely on their own to justify a tribunal taking no action.

70. Exceptional circumstances are unusual, special or uncommon, so such cases are likely to be very rare. The tribunal’s determination must fully and clearly explain:

a what the exceptional circumstances are

b why the circumstances are exceptional

c how the exceptional circumstances justify taking no further action.”

71. It noted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

72. The Tribunal was satisfied that there were no exceptional circumstances in Dr Celaire’s case which could justify it taking no action. Further the Tribunal considered that concluding the case by taking no action would be insufficient to protect the public interest and would not mark the seriousness of Dr Celaire’s conviction.

Conditions

73. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Celaire’s registration. It has borne in mind that any conditions must be appropriate, proportionate, workable and measurable.

74. The Tribunal referred to paragraph 81 of the SG:

“81 Conditions might be most appropriate in cases:

a involving the doctor’s health

b involving issues around the doctor’s performance

c where there is evidence of shortcomings in a specific area or areas of the doctor’s practice

d where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.”

75. The Tribunal noted that conditions may be workable where a doctor has insight into their conduct, is likely to comply with conditions, and where a doctor is likely to respond positively to remediation or retraining. The Tribunal considered that none of these apply in Dr Celaire’s case.

76. There are no concerns about Dr Celaire’s performance as a doctor. All the evidence before the Tribunal points to Dr Celaire being a good and caring doctor. He is well liked by his professional colleagues and patients alike and displays high standards of professionalism.

77. The Tribunal was satisfied that the imposition of conditions would not be an appropriate response in this case.

Suspension

78. The Tribunal went on to consider whether to impose a period of suspension on Dr Celaire’s registration. The Tribunal took into account paragraphs 91- 98 of the SG, in particular:

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

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

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.

.....

f No evidence of repetition of similar behaviour since incident.

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

79. The Tribunal concluded that Dr Celaire’s conduct did amount to a serious breach of GMP. It considered that any sanction less than suspension would not be appropriate nor proportionate to mark the seriousness with which it had viewed his conduct. In particular, the Tribunal noted that Dr Celaire had been found guilty of a grave offence for which he had been sentenced to imprisonment. However, given the mitigation it had identified, the Tribunal was satisfied that Dr Celaire’s conduct was, in all the circumstances, not fundamentally incompatible with continued registration.

80. The Tribunal bore in mind that it was now satisfied that Dr Celaire has developed full insight and has remediated. It considered that as such, it was now highly unlikely that Dr Celaire would repeat his conduct.

81. Taking all of the evidence, submissions and its own deliberations into account, the Tribunal was satisfied that a period of suspension would appropriately mark the seriousness of Dr Celaire’s of the conduct which led to Dr Celaire’s conviction. This would be sufficient to uphold the overarching objective.

Erasure

82. The Tribunal went on to consider whether erasure would be an appropriate sanction. The Tribunal took into account paragraphs 108 and 109 of the SG:

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

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

a A particularly serious departure from the principles set out in Good medical practice where the behaviour is difficult to remediate.

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

c Doing serious harm to others (patients or otherwise), either deliberately or through incompetence and particularly where there is a continuing risk to patients (see further guidance below at paragraphs 129–132 regarding failure to provide an acceptable level of treatment or care).’

83. The Tribunal determined that, given the mitigating factors it had identified, and the relevant paragraphs of the SG, imposing a sanction of erasure would be disproportionate when taking into account the specific circumstances of this case.

84. The Tribunal concluded that in all the circumstances outlined a period of suspension on Dr Cellaire’s registration was proportionate and appropriate and would be sufficient to address the public interest.

Duration of suspension

85. Having considered the sanctions in ascending order of severity, and having determined to suspend Dr Cellaire’s registration, the Tribunal went on to consider the appropriate and proportionate period of suspension.

86. Paragraph 99 – 101 of the SG state:

“99 The length of the suspension may be up to 12 months and is a matter for the tribunal’s discretion, depending on the seriousness of the particular case.

100 The following factors will be relevant when determining the length of suspension:

a the risk to patient safety/public protection

b the seriousness of the findings and any mitigating or aggravating factors (as set out in paragraphs 24–60)

c ensuring the doctor has adequate time to remediate.

101 The tribunal’s primary consideration should be public protection and the seriousness of the findings.”.

87. In determining the length of suspension, the Tribunal considered, along with paragraphs 99-101 of the SG, paragraphs 20 and 21 of the SG under the heading *“Taking a proportionate approach to imposing sanctions”*:

“20 In deciding what sanction, if any, to impose the tribunal should consider the sanctions available, starting with the least restrictive. It should also have regard to the principle of proportionality, weighing the interests of the public against those of the doctor (this will usually be an impact on the doctor’s career, eg a short suspension for a doctor in training may significantly disrupt the progression of their career due to the nature of training contracts).

21 However, once the tribunal has determined that a certain sanction is necessary to protect the public (and is therefore the minimum action required to do so), that sanction must be imposed, even where this may lead to difficulties for a doctor. This is necessary to fulfil the statutory overarching objective to protect the public.”

88. The Tribunal reminded itself of the sentencing judge’s remarks as set out above at paragraph 30.

47. The Tribunal also had regard to the judge’s description of the victim’s injuries as follows:

‘It is not exaggeration to describe the injuries you caused to the four victims as catastrophic.’

89. The Tribunal also took into account remarks in the pre-sentencing report:

"It is not my assessment that Mr Cellaire behaved in a deliberately reckless way, or that he made a decision to drive dangerously without any regard for the consequences of his actions for himself or others that day. I would suggest that he is a conscientious man who is not prone to taking risks and who will carefully weigh up any decision making. However, he may have less self-awareness in terms of recognising his own emotions, stress levels and how an accumulation of trauma may impact upon his levels of concentration. People in caring professions tend to have an outward focus in terms of thinking about others and may not always be able to recognise when they themselves are tired, overwhelmed or experiencing unacceptable levels of stress."

90. Taking all matters into account, the Tribunal concluded that a period of nine months suspension is necessary and proportionate in this case to uphold public confidence in the medical profession.

91. The Tribunal went on to consider whether a review is necessary in this case. Paragraph 164 of the SG says *“In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing”*.

92. Para 163 of the SG states

164 *In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):*

*a they fully appreciate the gravity
of the offence*

b they have not reoffended

c they have maintained their skills and knowledge

93. The Tribunal is satisfied that, Dr Celaire fully appreciates the gravity of his conduct on 9 December 2020, has full insight into his driving conviction of 21 July 2022 and circumstances leading to it. He has not reoffend and maintained his skill and knowledge. In the Tribunal’s judgment there are no other factors that would require a review.

Determination on Immediate Order - 21/03/2024

1. Having determined to suspend that Dr Celaire’s name from the Medical Register, the Tribunal has now considered, in accordance with Section 38 of the Medical Act 1983 as amended, whether to impose an immediate order.

2. The Tribunal has borne in mind the test to be applied with regard to imposing an immediate order; it may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor.

Submissions

95. Both parties expressed the opinion that an immediate order was appropriate in Dr Celaire's case.

Tribunal's decision

96. The Tribunal has taken account of the relevant paragraphs of the SG in relation to when it is appropriate to impose an immediate order. Paragraphs 172 to 178 of the SG states:

172. The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor.....

.....

***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.*

97. Given that the Tribunal has decided that suspension is only the appropriate sanction in order to meet the requirements of the statutory overarching objective. It is appropriate and necessary to impose an immediate order in light of the circumstances of this case.

98. The Tribunal has directed to suspend Dr Celaire's registration for 9 months.

99. This means that Dr Celaire's name will be suspended from the register 28 days from when notice of this decision is deemed to have been served upon him, unless he lodges an appeal.

100. The interim order is hereby revoked.

101. That concludes the case.