

**PUBLIC RECORD**

**Dates:** 14/11/2022 - 16/11/2022

**Medical Practitioner’s name:** Dr James FARTHING  
**GMC reference number:** 7528002  
**Primary medical qualification:** MB ChB 2016 University of Manchester

Type of case	Outcome on facts	Outcome on impairment
XXX	XXX	XXX
New - Conviction / Caution	Facts relevant to impairment found proved	Impaired
New - Misconduct	Facts relevant to impairment found proved	Not Impaired

**Summary of outcome**

Erasure

Immediate order imposed

**Tribunal:**

Legally Qualified Chair	Mr Kamran Choudhry
Lay Tribunal Member:	Mrs Debbie Hill
Medical Tribunal Member:	Mr Mike (John) Hayward
Tribunal Clerk:	Mr Mark Hibbert

**Attendance and Representation:**

Medical Practitioner:	Not present and represented
Medical Practitioner’s Representative:	Mr Stephen Brassington, Counsel, instructed by MDDUS
GMC Representative:	Ms Eleanor Fry, 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 and Impairment - 15/11/2022**

#### **The Facts**

1. This determination will be handed down in private. However, as this case concerns Dr Farthing's conviction and misconduct, a redacted version will be published at the close of the hearing with those matters relating to XXX removed.

#### **Background**

2. Dr Farthing qualified in 2016 from Manchester University with an MB ChB. Prior to the events which are the subject of the hearing, Dr Farthing was a Foundation Trainee in Lancashire Teaching Hospitals, Northwest Deanery from August 2016 to July 2018. Between August 2018 to July 2019, Dr Farthing worked as a Junior Clinical Fellow in Acute Medicine at Chorley Hospital. At the time of the events Dr Farthing was practising as an Internal Medicine Trainee in South Manchester.
3. The allegation that has led to Dr Farthing's hearing can be summarised as on 29 July 2021, at Great Manchester Magistrates' Court, Dr Farthing was convicted of: adult attempt to engage in sexual communication with a child; attempt to cause a child aged 13 to 15 to watch/look at an image of sexual activity; attempt to cause a female aged 13 or over to engage in sexual activity.
4. On 14 September 2021, at Manchester Crown Court, Dr Farthing was sentenced to: 6 months imprisonment suspended for two years; 20 days Rehabilitation Activity Requirement; 200 hours of unpaid work and 31 sessions on the Horizon programme. In

addition, Dr Farthing was included on the sex offenders register for seven years and a sexual harm prevention order was imposed on him for 10 years.

5. On 3 August 2021, Dr Farthing accepted a community resolution order for possession of cannabis.
6. XXX
7. Dr Farthing referred himself to the GMC on 16 March 2021.

### The Outcome of Applications Made during the Facts Stage

8. The Tribunal granted Dr Farthing’s application, made pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’), that, the public be excluded from parts of the hearing where matters relating to XXX are discussed. The Tribunal’s full decision on the application is included at Annex A.
9. The Tribunal granted Dr Farthing’s application, made pursuant to Rule 31 of the Rules, that, the Tribunal should proceed with the hearing in his absence. The Tribunal’s full decision on the application is included at Annex B.

### The Allegation and the Doctor’s Response

10. The Allegation made against Dr Farthing is as follows:

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

1. XXX

2. XXX

3. On 29 July 2021, at the Greater Manchester Magistrates’ Court, you were convicted of:
  - a. adult attempt to engage in sexual communication with a child; **Admitted and found proved.**
  - b. offender 18 or over attempt to cause a child aged 13 to 15 to watch/ look at an image of sexual activity; **Admitted and found proved.**

- c. attempt to cause a female aged 13 or over to engage in sexual activity.  
**Admitted and found proved.**
4. On 14 September 2021 you were sentenced at the Crown Court at Manchester Minshull Street and:
- a. you were sentenced to:
    - i. 6 months imprisonment, suspended for 2 years; **Admitted and found proved.**
    - ii. 20 days Rehabilitation Activity Requirement; **Admitted and found proved.**
    - iii. 200 hours of unpaid work; **Admitted and found proved.**
    - iv. 31 sessions on the Horizon programme; **Admitted and found proved.**
  - b. the following ancillary orders were imposed upon you:
    - i. inclusion on the sex offenders register for 7 years; **Admitted and found proved.**
    - ii. a sexual harm prevention order for 10 years. **Admitted and found proved.**
5. On 3 August 2021 you accepted a community resolution order in respect of cannabis for personal use being found at your home address on 12 March 2021.  
**Admitted and found proved.**

### The Admitted Facts

11. At the outset of these proceedings, through his counsel, Mr Brassington, Dr Farthing made admissions to all paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of 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

### Witness Evidence

12. Dr Farthing provided his own witness statement dated 15 June 2022.

XXX

13. XXX

### Documentary Evidence

13. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:

- Community Resolution Order dated 3 August 2021;
- Certification on Conviction dated 29 July 2021;
- Suspended Sentence Order dated 14 September 2021;
- Sexual Harm Prevention Order dated 14 September 2021;
- Notice of Monetary Order dated 14 September 2021;
- Notice of inclusion in the Children’s Barred List or the Adults’ Barred List dated 14 September 2021;
- Pre-Sentence Report dated 19 August 2021.

### Submissions

#### On behalf of the GMC

14. Ms Fry submitted that in order to protect the public and to maintain public confidence in the profession, a finding of impairment was necessary.

15. Ms Fry submitted that this was a case of conviction for sexual offences involving a child, in the context of Dr Farthing’s own acceptance of a long-standing engagement in sexual communication with children.

16. Ms Fry submitted that the community resolution order for possession of cannabis should be considered in the context of its use by Dr Farthing to disinhibit himself before engaging in sexual offending against children.
17. Ms Fry submitted that Dr Farthing's actions represented serious breaches of the following paragraphs of *Good medical practice* (GMP):

*'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.'*

*27 Whether or not you have vulnerable adults or children and young people as patients, you should consider their needs and welfare and offer them help if you think their rights have been abused or denied.*

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

18. Ms Fry submitted, in relation to paragraph 27, that in this case Dr Farthing himself had been the abuser.
19. In relation to paragraphs 1 and 2 of the Allegation, Ms Fry submitted that it was a matter for the Tribunal to determine if Dr Farthing's XXX amounted to impairment of his fitness to practise.

20. XXX.

21. XXX.

22. XXX.

23. Ms Fry submitted that Dr Farthing has demonstrated some significant insight into his behaviour. XXX. In relation to Dr Farthing's sexual offences and possession of cannabis, Ms Fry noted that he had engaged with a number of support and treatment services including Safer Lives, StopSO and Change Grow Live. She acknowledged that he had also

installed software to monitor his online activity and had nominated XXX to receive reports of his internet usage.

24. Ms Fry submitted that all of the steps taken by Dr Farthing to address his behaviour, began after his arrest.
25. Ms Fry submitted that in relation to paragraphs 3, 4 and 5 of the Allegation, a finding of impairment was required to satisfy the public interest in this case.

26. XXX.

On behalf of Dr Farthing

27. Mr Brassington submitted at the outset that paragraphs 3 and 4 of the Allegation, relating to Dr Farthing's sexual offending, demanded a finding of impairment in the public interest.
28. Mr Brassington submitted that there was no attempt by Dr Farthing to justify his actions and that he was appalled and ashamed at the manner in which he had conducted himself and had brought the medical profession into disrepute.
29. Mr Brassington submitted that it was right to observe that Dr Farthing had complied with the police, admitted his guilt at the earliest opportunity and had complied with the GMC investigation. He submitted that Dr Farthing had taken several steps to address his behaviour but that he accepted that his actions were completely incompatible with being registered as a doctor.
30. Mr Brassington drew the Tribunal's attention to the report by Ms C, Psychosexual Psychotherapist where she stated, *'Dr Farthing is taking responsibility and accountability for his actions and is not seeking to blame others, rationalise, or minimise his actions.'*
31. Mr Brassington urged the Tribunal to avoid unnecessary speculation regarding the suggestion of any wider misconduct and invited it to focus on the certificate of conviction.

32. Mr Brassington submitted that considered in isolation, the community resolution order accepted by Dr Farthing for possession of cannabis was not so serious as to amount to serious professional misconduct.

33. XXX.

34. XXX.

35. In summary, Mr Brassington submitted that Dr Farthing accepted that his fitness to practise was impaired due to his conviction but invited the Tribunal to find that he is not impaired because of XXX or misconduct.

36. XXX.

### Relevant Legal Principles

37. 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.

38. The Tribunal reminded itself that it must consider whether Dr Farthing's fitness to practise is impaired today and must therefore look forward not back. It had regard to the case of *Cheatle v General Medical Council [2009] EWHC 645 (Admin)*.

39. The Tribunal had regard to Dame Janet Smith's approach in *The Fifth Shipman Report*, cited in *CHRE v NMC and P Grant [2011] EWHC 927 (Admin)* which stated that when considering impairment, a Tribunal should consider:

*'a) Whether the registrant 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;*

*b) Whether the registrant has in the past brought and/or is liable in the future to bring the profession into disrepute;*

*c) Whether the registrant has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.*



*d) Whether the registrant has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

40. XXX.

41. In approaching the decision on misconduct, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct and that the misconduct was serious, and then whether the finding of that misconduct could lead to a finding of impairment.

42. The Tribunal had regard to the case of *Roylance v General Medical Council [1999] UKPC 16* which stated:

*'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word "professional" which links the misconduct to the profession of medicine. Secondly, the misconduct is qualified by the word "serious". It is not any professional misconduct which will qualify. The professional misconduct must be serious.'*

43. The Tribunal reminded itself that when considering impairment, it should consider the level of insight demonstrated by the doctor and any efforts taken to remediate. It had regard to the cases of *Cohen v General Medical Council [2008] EWHC 581 (Admin)* and *General Medical Council v Dr Joseph Nyamasve [2018] EWHC 1689 (Admin)*.

44. The Tribunal had regard to the Overarching Objective and to the case of *General Medical Council v Chaudhary [2017] EWHC 2561 (Admin)* which stated:

*'it is important for this court to have restated the importance of the overarching objective, the tripartite public interest and the essential need for MPTs to conduct a balancing exercise rather than focus on just one aspect of the test.'*

## The Tribunal's Determination on Impairment

45. In considering the Allegation against Dr Farthing the Tribunal was mindful that there were XXX heads of impairment to determine: XXX conviction and misconduct.

XXX

46. XXX.

47. XXX.

48. XXX.

49. XXX.

50. XXX.

51. XXX.

52. XXX.

53. XXX.

### Paragraphs 3 and 4 of the Allegation - conviction

54. The Tribunal had regard to the evidence of the convictions and sentence received by Dr Farthing. In addition, it had regard to the evidence provided in Dr Farthing's own witness statement and the actions he has been undertaking since this incident.

55. The Tribunal considered the three convictions for sexual offences against children to be at the very serious end of the scale of offending.

56. The Tribunal considered the submission made by Ms Fry regarding the breaches of GMP. It agreed that Dr Farthings actions represented breaches of fundamental tenets of the medical profession and contravened paragraphs 1, 27 and 65 of GMP.

57. The Tribunal considered that there was evidence that Dr Farthing had developed insight into his offending. He was engaging with various support networks for sexual offenders and had accepted full responsibility for his crimes. However, the Tribunal considered that Dr Farthing's insight was still developing. In particular, the Tribunal noted evidence provided by Ms C XXX stating that Dr Farthing's *'therapeutic journey was in its early stages'* and that she would offer him a further *'12-20 sessions'*.
58. The Tribunal was of the view that fellow members of the profession and the wider public would be appalled at Dr Farthing's actions. In considering the principles set out in the case of *CHRE v NMC and P Grant*, the Tribunal concluded that Dr Farthing's crimes had brought the medical profession into disrepute and remains liable to do so in the future; breached fundamental tenets of the profession; and posed a risk to patients and the public. The Overarching Objective would not be met if a finding of impairment were not found for crimes of such a serious nature.
59. The Tribunal determined that Dr Farthing's fitness to practise is impaired by reason of his conviction.

Paragraph 5 of the Allegation - misconduct

60. In considering this paragraph of the Allegation, the Tribunal was mindful that it related to a community resolution order for a single, isolated incident where Dr Farthing was found to be in possession of a small amount of cannabis at his home.
61. The Tribunal reminded itself of the two-stage approach it must take when considering impairment by reason of misconduct.
62. The Tribunal noted that possession of cannabis is a criminal offence. It took the view that such behaviour falls below standard expected of a medical professional and amounts to misconduct.
63. The Tribunal noted that the cannabis was found at Dr Farthing's home, not at work, and that whilst illegal, he was not charged or convicted of a crime for this incident. Dr Farthing has demonstrated some insight into his inappropriate cannabis use. There has been no repetition to date and the objective evidence establishes that Dr Farthing has abstained from the use of cannabis for a period of time.

64. Taking into consideration these circumstances, the Tribunal took the view that fellow practitioners and members of the public would not find Dr Farthing's actions, as described in the wording of the Allegation, to be so deplorable as to amount to serious professional misconduct. It therefore did not reach the threshold to be considered as impairing fitness to practise.
65. The Tribunal determined that Dr Farthing's fitness to practise is not impaired by reason of misconduct.

#### Determination on Sanction - 16/11/2022

66. This determination will be handed down in private. However, as this case concerns Dr Farthing's conviction, a redacted version will be published at the close of the hearing with those matters relating to XXX removed.
67. Having determined that Dr Farthing's fitness to practise is impaired by reason of his XXX and 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.

#### The Evidence

68. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

#### Submissions

##### On behalf of the GMC

69. Ms Fry reminded the Tribunal of the Overarching Objective and drew the Tribunal's attention to the Sanctions Guidance ('SG'). In particular, she noted the following paragraph of the SG:

*'17 Patients must be able to trust doctors with their lives and health, so doctors must make sure that their conduct justifies their patients' trust in them and the public's trust in the profession (see paragraph 65 of Good medical practice). Although the tribunal should make sure the sanction it imposes is appropriate and proportionate, the reputation of the profession as a whole is more important than the interests of any individual doctor.'*

70. Ms Fry reminded the Tribunal of the approach it should take as set out in the SG:

*‘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.*

*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.’*

71. Ms Fry submitted that the appropriate sanction in this case was one of erasure from the medical register. She stated that erasure was the minimum required to protect the public.

72. Ms Fry submitted that whilst conditions may have been appropriate in addressing the concerns about XXX, there could be no conditions that would be appropriate in addressing the grave actions that led to Dr Farthing’s conviction.

73. Ms Fry submitted that to suspend Dr Farthing’s registration would not be sufficient to protect the public and uphold the overarching objective.

74. Ms Fry drew the Tribunal’s attention to the paragraphs of the SG that deal with the sanction of erasure, in particular:

*‘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.’*

75. Ms Fry reminded the Tribunal that Dr Farthing had used two different social media accounts to engage with younger users. He had engaged in conversation with a user who he thought to be a 13-year-old girl and pushed the topic of sex even after being told by the user that they didn’t want to talk about that topic. He went on to describe graphic

sexual acts and sent explicit photographs including one of his penis covered with ejaculate.

76. Ms Fry submitted that Dr Farthing's actions were fundamentally incompatible with being a doctor.
77. Ms Fry drew the Tribunal's attention to paragraph 109 of the SG, which sets out factors, the presence of which, may indicate that erasure is appropriate. She submitted that the following were relevant to this case:

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

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

*e Violation of a patient's rights/exploiting vulnerable people*

*f Offences of a sexual nature, including involvement in child sex abuse materials. [...]*

*i Putting their own interests before those of their patients.'*

78. Ms Fry drew the Tribunal's attention to paragraphs 149-159 of the SG which relate specifically to sexual misconduct and sexual offenders, in particular:

*'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.*

*151 Any doctor who has been convicted of, or has received a caution for, a sexual offence listed in Schedule 3 to the Sexual Offences Act 2003 must notify the police (register) under section 80 of the Sexual Offences Act 2003 and may need to undertake a programme of rehabilitation or treatment. Sexual offences include accessing and viewing, or other involvement in, child sex abuse materials, which involves the exploitation or abuse of a child. These offences seriously undermine patients' and the public's trust and confidence in the medical profession and breach a*

*number of principles set out in Good medical practice (paragraph 65 regarding honesty and integrity, particularly paragraph 47 regarding respecting patients' dignity, and paragraph 27 regarding children and young people).'*

79. Ms Fry reminded the Tribunal that following Dr Farthing's conviction in 2021, he is subject to inclusion on the sex offenders register for 7 years and a sexual harm prevention order for 10 years.

80. Ms Fry drew the Tribunal's attention to paragraph 153 of the SG which states:

*'153 While the courts distinguish between degrees of seriousness, any conviction for child sex abuse materials 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. It is therefore highly likely that, in these cases, the only proportionate sanction will be erasure.'*

On behalf of Dr Farthing

81. Mr Brassington submitted that Dr Farthing did not contend that the sanction imposed should be anything other than erasure. He drew the Tribunal's attention to Dr Farthing's statement where he stated, *'This Witness Statement is not an attempt to justify my actions. They are unjustifiable and totally incompatible with being a doctor.'*

82. Mr Brassington submitted that Dr Farthing had complete insight into his actions and the impact that such behaviour has on the profession and the public. He stated that this was a tragic and pathetic end to the otherwise unblemished career of a dedicated and competent doctor.

83. Mr Brassington submitted that since his arrest, Dr Farthing had done everything one would expect of him. He sought treatment for XXX his offending behaviour.

84. Mr Brassington submitted that Dr Farthing had no self-pity and did not pose any future risk.

85. Mr Brassington submitted that Dr Farthing seeks erasure from the medical register and invited the Tribunal to impose such a sanction.

### The Tribunal's approach

86. The Tribunal reminded itself that the submissions made were only to assist in its decision making. It was not bound by them and the decision on what sanction, if any, to impose was one for it to determine. It had regard to the case of *R (Bevan) v GMC [2005] EWHC 174 (Admin)*.
87. There is no burden or standard of proof at this stage and the Tribunal should consider each case on its own merits as stated in the case of *R(Harry) v GMC [2006] EWHC 3050*.
88. The Tribunal had regard to the SG including the guidance on the approach it should take and the sanctions available to it.
89. The Tribunal noted that the main purpose of imposing a sanction is to protect the public. Its purpose is not to punish, although it may have a punitive effect. When imposing a sanction, it must be proportionate and impose the least restrictive sanction necessary.
90. The Tribunal had regard to the case of *Bolton v The Law Society [1993] EWCA Civ 32* which states:

*'The reputation of the profession is more important than the fortunes of any individual member.'*

91. The Tribunal must consider mitigating and aggravating features in the case and weigh them accordingly. It had regard to the case of *Stone v General Medical Council [2017] EWHC 2534* which stated:

*'matters of personal mitigation are likely to carry considerably less weight in regulatory than in criminal proceedings.'*

92. The Tribunal had regard to the case of *Fernando v General Medical Council [2014] EWHC 1664* which stated:

*'[A Tribunal] were entitled to look beyond the charges that the appellant was facing to take into account his overall professional history to come to a conclusion which was fair and in the public interest.'*



### The Tribunal's Determination on Sanction

93. The Tribunal reminded itself that it was required to impose a single sanction in respect of its finding that Dr Farthing's fitness to practise was impaired by reason of XXX and conviction.

### Aggravating and Mitigating Factors

94. The Tribunal considered aggravating and mitigating factors in this case. In relation to aggravating factors, the Tribunal was of the view that the factual background of Dr Farthing's criminal convictions contained aggravating features. In particular, the Tribunal had regard to the sentencing remarks of Her Honour Judge Landale which stated that Dr Farthing:

*'began a conversation with a person [he] believed to be a 13 year old girl [and who] made it clear from her responses that she did not want to talk about sex and presented herself as naive in sexual matters'; and*

*'The offences were deliberate, [that Dr Farthing] knew what [he was] doing was wrong but [that he was] seeking sexual thrills without caring about the harm that [he] may be causing to a young naive child.'*

95. In relation to mitigating factors, the Tribunal considered that since being convicted, Dr Farthing had developed some insight into his actions. He had started to take steps towards addressing and resolving the issues relating to both XXX and his online sexual offending. He further demonstrated a willingness to engage with support and treatment. The Tribunal also noted that he had pleaded guilty at the earliest opportunity and accepted the serious nature of the convictions and the harm he had caused to the public confidence in the medical profession.

### No action

96. The Tribunal was mindful that taking no action was only appropriate where there were exceptional circumstances to justify it doing so. The Tribunal did not identify any such features in this case.

### Conditions

97. The Tribunal agreed with the submission made by Ms Fry that conditions may have been an appropriate response to address then Tribunal's finding that Dr Farthing's fitness to practise is impaired XXX. However, conditions would be entirely inappropriate and disproportionate to address the grave nature of Dr Farthing's criminal convictions for sexual offences involving a person he thought was 13 years old. The Tribunal considered the SG at paragraph 81 which describes the type of case where conditions may be appropriate and determined that this was very clearly not that type of case.

### Suspension

98. The Tribunal had regard to the SG at paragraph 92 which states:

*'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 (i.e. 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).'*

99. The Tribunal noted that for suspension to be an appropriate and proportionate sanction, the conduct must be such that it is not fundamentally incompatible with continued registration.

100. Whilst the Tribunal accepted that there were some mitigating factors as it has identified, these did not detract from the seriousness of Dr Farthing's criminal convictions. The Tribunal took the view that Dr Farthing's explicit and persistent sexual communication with a person he thought was 13 years old, over two days and which included the sending of images of his erect penis and a picture of ejaculate on his penis, would be considered abhorrent and shocking by fellow practitioners and members of the public.

101. The Tribunal concluded that suspension was not sufficient to satisfy the three limbs of the overarching objective and that Dr Farthing's actions and convictions were fundamentally incompatible with continued registration.

### Erasure

102. Having concluded that suspension was not sufficient to satisfy the overarching objective, the only sanction remaining for the Tribunal to impose was one of erasure from the medical register.

103. The Tribunal had regard to the SG and the submissions made by Ms Fry. It agreed that paragraph 108, as outlined above, was particularly relevant. With regard to the factors submitted as relevant by Ms Fry from paragraph 109, the Tribunal agreed that a, b, e and f were engaged in this case.

104. The Tribunal had regard to the guidance at 150 and 151. It noted that 151 states, *'Sexual offences include accessing and viewing, or other involvement in, child sex abuse materials, which involves the exploitation or abuse of a child. These offences seriously undermine patients' and the public's trust and confidence in the medical profession and breach a number of principles set out in Good medical practice.'*

105. The Tribunal was satisfied that the appropriate and proportionate sanction in this case, and the only one which would properly satisfy all three limbs of the overarching objective, was one of erasure from the medical register.

### **Determination on Immediate Order - 16/11/2022**

106. Having determined to erase Dr Farthing's name from the medical register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order.

### **Submissions**

107. On behalf of the GMC, Ms Fry submitted that in the circumstances and given the nature of Dr Farthing's conviction, an immediate order of suspension is entirely appropriate.

108. On behalf of Dr Farthing, Mr Brassington made no submissions.

### **The Tribunal's Determination**

109. In reaching its decision, the Tribunal had regard to all of the evidence before it and the guidance provided in paragraphs 172-178 of the SG.

110. The Tribunal reminded itself that it had found Dr Farthing's actions and conviction to be so serious that erasure from the medical register was the only sanction that would adequately satisfy the three limbs of the overarching objective.

111. The Tribunal noted paragraph 178 of the SG which states:

*'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.'*

112. It further noted paragraph 173 of the SG where it states that an immediate order may be particularly appropriate where a doctor has *'abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'*

113. The Tribunal was of the view that, given the seriousness of Dr Farthing's offences and conviction, fellow practitioners and members of the public would be appalled if he was able to work unrestricted before the substantive sanction of erasure took effect.

114. Therefore, the Tribunal determined that it was in the public interest to impose an immediate order of suspension on Dr Farthing's registration.

115. This means that Dr Farthing's registration will be suspended from today. The substantive direction, as already announced, will take effect 28 days from the date on which written notification of this decision is deemed to have been served, 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.

116. The interim order is hereby revoked.

**ANNEX B – 15/11/2022**

**Application to proceed in Dr Farthing’s absence**

117. Dr Farthing was not present at the hearing but was represented by Mr Stephen Brassington, Counsel, instructed by MDDUS.
118. At the outset of proceedings, Mr Brassington made an application, pursuant to Rule 31 of the GMC Fitness to Practise Rules 2004 (as amended) (‘the Rules’), to proceed with the hearing in Dr Farthing’s absence.
119. Mr Brassington explained that Dr Farthing was aware of the hearing and whilst not intending to be disrespectful to the Tribunal, had chosen not to attend for the reasons provided in his witness statement.
120. On behalf of the GMC, Ms Eleanor Fry, Counsel, stated that the application was not opposed.
121. The Tribunal considered whether it would be appropriate to proceed with this hearing in Dr Farthing’s absence pursuant to Rule 31 of the Rules. The Tribunal noted that it must balance the interests of the doctor with the wider public interest.
122. The Tribunal was satisfied that Dr Farthing was aware of the hearing and had chosen not to attend, instead being represented by his legal representatives.
123. The Tribunal concluded that it was fair and in the public interest as well as in the interests of justice and determined, in accordance with Rule 31, to proceed with the hearing.