

PUBLIC RECORD**Dates:** 03/05/2023 - 05/05/2023

Medical Practitioner's name: Dr James SAMBO

GMC reference number: 6143212

Primary medical qualification: MB BS 2007 University of London

Type of case

Restoration following disciplinary erasure

Summary of outcome

Restoration application refused

Right to make further applications not suspended indefinitely

Tribunal:

Legally Qualified Chair	Mr Julian Weinberg
Lay Tribunal Member:	Mrs Joy Hamilton
Medical Tribunal Member:	Dr Harriet Leyland

Tribunal Clerk:	Mr Michael Murphy
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Attendance and Representation:

Medical Practitioner:	Present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Mr Ian Brook, 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 Restoration - 05/05/2023

Background

1. This is Dr Sambo's second restoration application. His name was erased from the Medical Register for disciplinary reasons in December 2015, following a Fitness to Practise Panel hearing.
2. Dr Sambo qualified in 2007 from the University of London. He was registered with the GMC in July 2007.

The 2015 Fitness to Practice Panel

3. Dr Sambo's case was first considered by a Fitness to Practise Panel (The 2015 Panel) in November 2015.
4. At the time of events that led to the 2015 hearing he was a third-year GP trainee. On 18 January 2012, Dr Sambo was arrested by Hampshire Police following two separate allegations of sexual assault made by two female patients, Patient A and Patient B who he had consulted. On 22 July 2013, Dr Sambo was acquitted of both charges of sexual assault at Winchester Crown Court.
5. The 2015 Panel made the following findings of fact:
 1. In November and December 2011 you were working as a General Practitioner at the Princes Garden Surgery, Aldershot ("the Surgery").

Admitted and Found Proved

Patient A

2. On 22 November 2011, you were consulted by Patient A at the Surgery; it was indicated that Patient A was suffering with back and hip pain.

Admitted and Found Proved

3. Your treatment of Patient A was substandard in that you:

a. examined, when it was not clinically indicated to do so, Patient A's:

i. abdomen; **Found Proved**

ii. chest; **Found Proved**

b. failed to obtain Patient A's consent to examine her:

i. abdomen; **Found Proved**

ii. chest; **Found Proved**

c. by palpation from behind examined Patient A's:

i. abdomen; **Found Not Proved**

ii. chest; **Found Not Proved**

d. failed to examine Patient A's right leg:

i. adequately; **Found Proved**

ii. at all; **Found Proved**

e. failed to adequately examine Patient A's hips; **Found Proved**

f. inappropriately prescribed Diazepam; **Found Proved**

- g. failed to make an adequate record of the consultation. **Admitted and Found Proved**
- 4. Your communication with Patient A was substandard in that you:
 - a. failed to tell Patient A that she could pull her trousers back up when they fell down; **Found Not Proved**
 - b. failed to indicate to Patient A that the examination had concluded; **Found Proved**
 - c. failed to inform Patient A of the likely diagnosis; **Admitted and Found Proved**
 - d. failed to communicate the advantages and disadvantages of the medication prescribed to Patient A. **Admitted and Found Proved**

Patient B

- 5. On 12 December 2011 you were consulted by Patient B at the Surgery; it was indicated that Patient B was suffering with chronic back pain. **Admitted and Found Proved**
- 6. Your treatment of Patient B was substandard in that you:
 - a. failed to offer Patient B a chaperone; **Admitted and Found Proved**
 - b. failed to give Patient B privacy when:
 - i. undressing; **Found Proved**
 - ii. redressing; **Found Proved**
 - c. failed to obtain Patient B's consent before:

- i. removing her bra; **Found Not Proved**
 - ii. replacing her bra; **Found Proved**
- d. examined Patient B’s breasts when it was not clinically indicated to do so; **Found Proved**
- e. failed to adequately examine Patient B’s legs; **Admitted and Found Proved**
- f. failed to record that you had examined Patient B’s hips. **Admitted and Found Proved**
7. Your actions at paragraphs 3a, 3b, 3c, 4a, 4b, 6a, 6b, 6c, and 6d were sexually motivated. **Found Proved in relation to paragraphs 3a, 3b, 6a, 6b, 6c(ii), and 6d Found Not Proved in relation to paragraphs 3c, 4a, 4b and 6c(i)**

6. The 2015 Panel considered whether Dr Sambo’s actions constituted misconduct. In relation to Patient A, it determined that by performing examinations that were not clinically indicated and in the absence of Patient A’s consent, Dr Sambo’s actions amounted to serious misconduct. In relation to Patient B, the 2015 Panel determined that Dr Sambo’s failures to offer her a chaperone, to give her privacy when undressing and redressing, to obtain her consent before replacing her bra and his examination of her breasts when it was not clinically indicated, were serious. The 2015 Panel found that Dr Sambo’s actions in relation to some of the conduct set out in the Allegation was sexually motivated and that his conduct in this regard was particularly serious. His fitness to practise was therefore found to be impaired.

7. Having found Dr Sambo’s fitness to practise impaired, the 2015 Panel determined that Dr Sambo did not act with integrity and that he had abused the trust that his patients had placed in him, and the trust the public places in the medical profession. It determined that Dr Sambo’s sexually motivated misconduct was fundamentally incompatible with continued registration and that erasure was the only proportionate sanction.

The 2021 Restoration Tribunal

8. This was Dr Sambo's first restoration application. The 2021 Tribunal accepted that Dr Sambo had undertaken some reflection of his actions. However, it was not convinced that he fully comprehended the impact his actions had upon his patients. The 2021 Tribunal recognised the efforts Dr Sambo had made in his attempts to understand his failures in communication, which led to his misconduct. It considered that he had demonstrated some remediation by undertaking training in communication. However, the 2021 Tribunal took the view that Dr Sambo had focused his remediation on his lacking communication skills and had not fully appreciated or addressed the findings of the 2015 Panel in relation to his conduct being sexually motivated.

9. The 2021 Tribunal was not satisfied that Dr Sambo was fit to return to unrestricted practice. Accordingly, it determined to refuse Dr Sambo's application to be restored to the Medical Register.

Today's Restoration Hearing

10. This Tribunal has convened to consider Dr Sambo's second application for his name to be restored to the Medical Register in accordance with Section 41 of the Medical Act 1983 (as amended) and Rule 24 of the GMC (Fitness to Practise) Rules 2004 (as amended).

The Evidence

11. The GMC called no witnesses to give oral evidence and relied solely on the documentary evidence provided to the Tribunal. This included the determinations and transcripts of the 2015 Panel and the 2021 Tribunal along with Dr Sambo's second restoration application dated 30 September 2022.

12. Dr Sambo gave oral evidence at the hearing and relied upon the documentary evidence he provided which included, but was not limited to, an undated reflective statement and certificates of various continuing professional development (CPD) courses he has undertaken. In his oral evidence he stated that he now accepts the findings of the 2015 Panel that his actions were sexually motivated. Dr Sambo also expressed that he is sorry for his

actions and took the Tribunal through the various CPD courses he had undertaken and other strategies he had developed to avoid repeating his misconduct.

Submissions

13. On behalf of the GMC, Mr Brook submitted that the GMC opposed Dr Sambo's application for restoration. He stated that Dr Sambo is in the same position as last time he applied for restoration in 2021, but now Dr Sambo has stated that he accepts responsibility for his actions. Mr Brook drew the Tribunal's attention to Dr Sambo's reflective statement in which Dr Sambo makes statements such as the *'panel felt my examination was sexually motivated'* and that he *'did not set out to wilfully do anything that will bring any form of harm to patients but accept that things went wrong with these patients under my care'*. Mr Brook interpreted this as Dr Sambo's acceptance of the 2015 Panel's findings that his actions were sexually motivated, but that Dr Sambo had still not taken responsibility for or recognised himself that his behaviour was sexually motivated.

14. Mr Brook submitted that there has been no acceptance from Dr Sambo that he intentionally sexually assaulted two patients and that Dr Sambo had not therefore demonstrated insight into his behaviour. He reminded the Tribunal that Dr Sambo said he regretted his actions but submitted that this was not genuine as he is still yet to concede what he did. Mr Brook stated that Dr Sambo has admitted to having *'ungodly desires'* which puts him in a worse position for restoration than the 2021 hearing.

15. Mr Brook noted Dr Sambo's comments that the patients 'may have' been effected by his actions which, he submitted demonstrated a lack of insight into the protection of patients, public confidence in the medical profession or proper standards of conduct. He stated that Dr Sambo's reflective notes are all irrelevant to the issues this Tribunal is dealing with as they relate to the upkeep of general medical knowledge.

16. Mr Brook conceded that Dr Sambo's insight has developed slightly since the 2021 hearing but that Dr Sambo believes reading the bible will assist him with any 'lustful thoughts'. He submitted that reading the bible would not assist Dr Sambo if he was in surgery and that all of the concerns outlined by the 2021 Tribunal remained applicable in this case.

17. Mr Brook submitted that Dr Sambo is not fit to practise medicine even though he has provided better evidence as to the impact his actions had on patients and developed strategies to reduce the risk of repetition. He submitted that Dr Sambo has fallen short of accepting that his actions were sexually motivated and even though he has provided evidence of CPD in relation to his medical knowledge but he is now less clinically skilled and has not provided any CPD relating to clinical skills.

18. As such, Mr Brook submitted that public confidence in the medical profession would be undermined if Dr Sambo's licence to practise was restored.

19. Dr Sambo stated that he now recognised the impact of his behaviour on patients and the wider profession. In his personal reflections document, he stated:

'I understand why the MPTS took the decision of removing my name from the register in January 2016 based on their findings as the GMC have a duty to ensure that the public's trust in the medical profession is not tarnished and to protect the integrity of the medical profession.

...I accept the verdict at that point in time, and now, it is my hope that on reading my personal reflection statement you would come to your own conclusion that I have now developed insight into the matter that happened in 2011.

...my standard of clinical practice and care could have been better, and I now understand that on a professional level, I had let myself and my profession down in that I should have always aimed to work at a high standard as a doctor and not try to cut corners.

So, having thought about it now for over 7 years now, I accept things went wrong and I blame no one but myself...

Looking back, the MPTS panel in 2015 found some parts of my examination of Patient A sexually motivated. I accept these findings. I sincerely regret my actions as it was a breach of trust that the patients have towards me as a doctor. On self reflection, I accept that I should not have examined patient's abdomen without carefully checking that it is clinically indicated as the reason to do an abdominal examination in a patient with back pain is if there's something in the history (presenting complaint) to suggest a visceral cause. Also, I should have gained consent from Patient A before doing any appropriate examination and communicated effectively to inform Patient A when the examination was concluded instead of quietly moving away in assumption that Patient A understands the examination is complete.

Furthermore, the MPTS panel found parts of my examination of Patient B sexually motivated. I accept these findings. I sincerely regret my actions as it was a breach of trust in a patient-doctor relationship. I accept that the way that I carried out the breast examination was inappropriate. Also, I should not have helped patient B, replace her bra as this act breaches professional boundaries. I should have gotten one of the health care assistants in the practice surgery to assist patient in putting back her clothing. Also, I accept that I did not follow the GMC guidelines on the use of a chaperone for intimate examinations with regards to Patient B.

I understand that my breach of trust in both patients eroded confidence that the public has on me as a doctor and the profession. Again, I accept the sanction imposed on me by the GMC as way of improving public's confidence in the profession. Moreover, I know that because of my actions, both patients may have been affected. For example, it could lead to them distrusting health professionals, it can have negative consequence on their emotional & mental wellbeing. It can also affect their self-esteem and even impact on their personal & work life. I am indeed very sorry for the distress that I have caused Patients A & B and fully accept that I let myself and my profession down but hope that the professional boundaries courses and all other courses and resources that I have attended or studied over the last 7 years has given me useful self-awareness on how to ensure that such things never repeat itself in my practice as a health professional.

One of the things that came out in the MPTS findings on my case in Dec 2015 was my poor communication, so during my time out of medicine, I sought to do a course on communication and found a free 8-week course on "Effective communication at the workplace" which I believe has increased my value as a medical professional'

20. Dr Sambo stated that he accepted the finding that his actions towards Patients A and B were sexually motivated and that the feelings he had when treating them were wrong. However, he stated that he did not believe that at the time, his conduct was sexually motivated.

21. Dr Sambo stated that, having sought guidance from spiritual members in his church community, he had now developed strategies for addressing sexually motivated behaviour in that:

- I will spend time searching the Bible for instruction concerning sexual temptation & meditate on it;
- Don't be ruled by passion;
- Renew my thoughts;

- I will consider the consequences of engaging in ungodly desires;
- Question my intent;
- To keep high godly standards;
- To stay connected with God.

22. Dr Sambo also stated that he now follows the principles he has learned from an article given to him by one of his spiritual mentors entitled 'Making Keystone Habits Work'. He stated that *'The concept is that you can consciously use your will power to make whatever positive change in area of your life is a lasting one.'* He stated that the aim was to ensure whatever he did for his patients was in line with GMC standards and that *'This will lead to patient and peers not seeing my examination as sexually motivated...I sincerely believe that having these tools (using my Christian belief system and the Keystone Habit Approach) at the back of my mind and using them in my personal & professional life will help me to overcome any ungodly desire or motivation. This will also ensure that whatever I do in a clinical setting is not sexually motivated or for self-gratification'.*

23. Dr Sambo stated that he has made attempts to maintain his clinical knowledge and skills. In support of this, Dr Sambo has submitted an extensive list of CPD courses that he had undertaken. In his reflective statement, Dr Sambo set out what he had learned from undertaking courses in Adult Safeguarding levels 1, 2 and 3, a course on Acting With Integrity, and a course called Developing High Trust Work Relationships. He stated that having done those courses, *'I realise that I may not have gained full consent from the patients before I carried the physical examinations by poor explanation/communication which might be one of the reasons why the panel felt my examination was sexually motivated...Some of the things that came to my mind was that I had poor examination technique, and I did not abide with the GMC guidelines on using chaperones for intimate examinations. These actions are now what I understand made the patients and the MPTS interpret that my actions were sexually motivated'.* He stated that from now on he would look out for any verbal or non-verbal cues that patients were unhappy with an examination.

24. He stated that due to the nature of the Allegation which led to his erasure, no Trust was willing to give him an opportunity to complete any clinical attachments or clinical observations.

25. In conclusion, Dr Sambo submitted that he had reflected on his behaviour, how it breached the trust patients had in him and his lack of integrity, but he likes to think that he now has things in place to be a better doctor.

The Tribunal's Approach

26. Throughout its consideration of Dr Sambo's application for restoration, the Tribunal was guided by the approach laid out in the MPTS Guidance document: *Guidance for medical practitioners tribunals on restoration following disciplinary erasure* (October 2019) ('the Guidance').

27. The Tribunal reminded itself that the onus is on Dr Sambo to satisfy it that he is fit to return to unrestricted practice. The test to be applied by Tribunals when considering if a doctor should be restored is that set out in *GMC v Chandra [2018] EWCA Civ 1898*, namely: '*having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective*'.

28. The Tribunal reminded itself that, in making its decision, it should consider the following factors:

- the circumstances that led to disciplinary erasure;
- whether the doctor has demonstrated insight into the matters that led to erasure, taken responsibility for their actions, and actively addressed the findings about their behaviour and skills including consideration of:
 - insight and remorse;
 - remediation and risk of repetition;
 - whether findings about the doctor's behaviour have been remedied;
 - likelihood of repetition of the previous findings about the doctor's behaviour;
- what the doctor has done since their name was erased from the Register including consideration of:

➤ overseas practice;

- steps the doctor has taken to keep their skills and knowledge up to date; and
- the lapse of time since erasure.

29. After considering these factors, the Tribunal reminded itself it should balance its findings against whether restoration meets the overarching objective. It took account of all the evidence before it, both oral and documentary along with the submissions made.

The Tribunal's Decision

The circumstances that led to disciplinary erasure

30. The Tribunal took into account the determination of the 2015 Panel fully. It noted the seriousness of Dr Sambo's behaviour which led to his erasure. It noted that the 2015 Panel had found that Dr Sambo's actions leading to his erasure were very serious and fundamentally incompatible with registration. At that time, as noted by the 2015 Panel, Dr Sambo failed to demonstrate adequate insight, and his reflection on the matters concerning both Patients A and B was limited.

31. The Tribunal also took into account the determination of the 2021 Tribunal which concluded that Dr Sambo was not fit to return to unrestricted practice.

Insight and Remorse

32. The Tribunal first considered Dr Sambo's level of insight into his behaviour towards patients A and B. In doing so it had regard to the following paragraph of the Guidance:

'B10 Factors that can be relevant to a doctor demonstrating genuine insight include, but are not limited to, evidence they have:

- a considered the concern, understood what went wrong and accepted they should have acted differently*
- b demonstrated that they fully understand the impact or potential impact of their performance or conduct, for example by showing remorse*

- c *demonstrated empathy for any individual involved, for example by apologising fully*
- d *taken steps to remediate and to identify how they will act differently in the future to avoid similar issues arising'*

33. In its deliberations, the Tribunal noted that during these proceedings the onus was on Dr Sambo to demonstrate that he has made progress with regards to the development of his insight and remorse.

34. The Tribunal noted Dr Sambo's evidence that, with the benefit of hindsight, he accepted that his conduct was sexually motivated. However, it has also had regard to the fact that Dr Sambo did not accept that at the time of the examinations in question his conduct was sexually motivated notwithstanding that the breast examinations were not clinically indicated. The Tribunal therefore concluded that the focus of Dr Sambo's reflections was on acceptance of previous findings rather than demonstrating a meaningful reflection on his own conduct. The Tribunal considered that Dr Sambo continued to take the position that any shortcomings in his examinations centred around consent and communication skills rather than his sexually motivated behaviour. The Tribunal therefore concluded that whilst Dr Sambo accepted that sexually motivated behaviour quite properly amounts to a serious falling short of the standards expected of a doctor, he nevertheless demonstrated little insight into his personal failings in this regard.

35. The Tribunal therefore concluded that whilst Dr Sambo's level of insight had increased since the 2021 hearing, it nevertheless was limited for the reasons set out above given his failure to demonstrate meaningful insight into his personal conduct.

Remediation

36. The Tribunal gave careful consideration to the remediability of the matters which led to Dr Sambo's erasure and was aware that sexually motivated misconduct was difficult to remediate. In doing so it had regard to paragraph B15 of the Guidance which states:

'Remediation can take several forms, including, but not limited to:

- a participating in training, supervision, coaching and/or mentoring relevant to the concerns raised*
- b attending courses relevant to the concerns raised, for example anger management, maintaining boundaries, ethics or English language courses*
- c evidence that shows what a doctor has learnt following the events that led to the concerns being raised, and how they have applied this learning in their practice (where applicable)*
- d evidence of good practice in a similar environment to where the concerns arose'*

37. The Tribunal has taken into account the extent of the CPD courses Dr Sambo has undertaken. Whilst noting that he has undertaken courses on safeguarding, Dr Sambo has not specifically demonstrated what he has learned from that or any other course that would assist him in addressing his sexually motivated behaviour. Dr Sambo accepted that a course specifically addressing this issue was available, but that it was prohibitively expensive and that in the circumstances, he was unable to enrol on it.

38. The Tribunal therefore concluded that until Dr Sambo fully addresses the issue of his sexually motivated behaviour, he will not be able to fully remediate his failings.

Risk of Repetition

39. The Tribunal recognised the efforts that Dr Sambo has gone to in attempting to remediate his failures. However, bearing in mind Dr Sambo's developing but nevertheless limited insight, the Tribunal concluded that he had not demonstrated that he had fully remediated his failings.

40. In considering the risk of repetition of Dr Sambo's misconduct, the Tribunal had regard to the following paragraphs of the Guidance:

'B22 In addition to the factual matters found proved, the following factors may also be relevant to a tribunal's decision on whether the doctor's fitness to practise is impaired and they can be allowed to return to unrestricted practice:

- *evidence the doctor has insight into the concerns about their fitness to practise and has actively addressed them*
- *the lapse of time since erasure*
- *the steps the doctor has taken to keep their medical knowledge and skills up to date*
- *what the doctor has done since their name was erased from the register.*

B24 Evidence of the doctor's current level of insight will be a significant factor for the tribunal in assessing the risk the doctor may repeat their previous misconduct or poor performance'

41. The Tribunal took into consideration Dr Sambo's level of insight and remediation when considering whether there remained a risk of repetition. The Tribunal concluded that in the circumstances there remained a risk that Dr Sambo might repeat his misconduct. The Tribunal noted that whilst Dr Sambo's insight has improved, he had yet to demonstrate a sufficient level of insight such that the Tribunal could be satisfied that there would be minimal risk of repetition and that Dr Sambo was therefore fit to return to unrestricted practice.

What Dr Sambo has done to keep his medical knowledge up to date and lapse of time?

42. Dr Sambo's name was erased from the Medical Register in December 2015. The Tribunal noted that he had not worked in a clinical environment since then and his reasoning for this was that he had contacted various Trusts, to query about attending clinical attachments, but due to the nature of the allegation against him none have given him an opportunity to work in a medical setting.

43. The Tribunal acknowledges the list of online CPD courses Dr Sambo has undertaken since the last hearing. The Tribunal accepted the difficulties Dr Sambo would have experienced in being able to demonstrate, within a clinical setting, that he had kept his knowledge and skills up to date. However, the Tribunal accepted that Dr Sambo had made reasonable efforts to keep his medical knowledge up to date given the sanction of erasure that had been imposed noting that Dr Sambo has been out of clinical practice for a significant period of time, totalling over seven years.

Will restoration meet the overarching objective?

44. The Tribunal went on to determine whether Dr Sambo is fit to practise and be restored to the Medical Register. It carefully balanced its findings against whether restoring him to the Medical Register would meet the overarching objective. In doing this, the Tribunal considered paragraph B35 of the Guidance which states:

‘Having considered the different factors above, the tribunal must make findings in relation to whether the doctor is fit to practise. The tribunal should then step back and balance its findings against whether restoration will meet our overarching objective. This balancing exercise will involve careful consideration of each of the elements’

45. The Tribunal was mindful of the serious findings that led to Dr Sambo’s erasure by the 2015 Panel and that his application for restoration was refused by the 2021 Tribunal. Bearing in mind all of the evidence received, the Tribunal was satisfied that Dr Sambo would still pose a risk to patients if he were permitted to return to practice. As such, it concluded that restoration to the medical register would undermine patient safety. The Tribunal took the view that public confidence in the profession would be seriously undermined by the restoration of Dr Sambo to the medical register, given his limited insight and the Tribunal’s finding of incomplete remediation, together with the identified ongoing risk to patients. It follows that professional standards and conduct for members of the profession would not be upheld if he were permitted to be restored to the medical register at this point in time.

46. The Tribunal therefore determined that restoring Dr Sambo’s name to the Medical Register would not promote and maintain patient safety, public confidence in the profession or maintain professional standards and conduct for members of the profession.

Conclusion

47. Having carefully considered the evidence and specific circumstances of this case, the Tribunal was not satisfied that Dr Sambo is fit to return to unrestricted practice. Accordingly, the Tribunal refused Dr Sambo's application to be restored to the Medical Register.

Determination under s41(9) Medical Act 1983 - 05/05/2023

1. Having already determined that Dr Sambo's application for restoration be refused, the Tribunal went on to consider, in accordance with Section 41(9) of the Medical Act 1983, as amended (the Act), whether to direct that his right to make further applications for restoration should be suspended indefinitely.

Submissions

On behalf of the GMC

2. Mr Brook submitted that Dr Sambo has accepted the findings of the 2015 Panel but not that he acted with sexual intention. He stated that Dr Sambo has focused on how other parties perceived his misconduct instead of addressing it directly. Mr Brook submitted that the coping mechanisms Dr Sambo has put in place would be insufficient to reduce the risk to patient safety and that Dr Sambo has been unable to keep his clinical knowledge up to date due to the nature of his misconduct.

3. Mr Brook went on to submit that a fully informed member of the public would be shocked if Dr Sambo was permitted to return to unrestricted practice. He asserted that it would be in the interests of patient safety, the maintenance of public confidence in the medical profession and upholding proper professional standards for Dr Sambo not to return to practice.

4. As such, Mr Brook submitted that Dr Sambo's right to make further applications for restoration should be indefinitely suspended.

Dr Sambo's submissions

5. Dr Sambo submitted that he should be given a chance to return to practice as he still has a lot to offer as a doctor. He stated that he taken on board all of the points in this

Tribunal's last determination and that he hoped to find a way to prove that he is fit to practise.

6. Dr Sambo submitted that he is remorseful and will try his best to prove that he has developed full insight into his misconduct. As such, he submitted that his applications for restoration should not be indefinitely suspended.

The Tribunal's decision

7. The Tribunal exercised its own judgement when determining whether to make a direction under section 41(9) of the Act, or not. Section 41(9) states:

'(9) Where, during the same period of erasure, a second or subsequent application for the restoration of a name to the register, made by or on behalf of the person whose name has been erased, is unsuccessful, a Medical Practitioners Tribunal may direct that his right to make any further such applications shall be suspended indefinitely.'

8. The Tribunal has already given a detailed determination on the application for restoration in this case and it has taken those matters into account at this stage of the proceedings along with the submissions made by Mr Brook, on behalf of the GMC, and those made by Dr Sambo. The Tribunal had regard to Section E of the Guidance which states:

'E1 If restoration is refused, the doctor must automatically wait at least 12 months before applying again. The tribunal has no discretion to make this period longer or shorter unless the doctor has made two or more previous applications.'

'E2 If it is the doctor's second unsuccessful application, tribunals should consider whether to indefinitely suspend the doctor's right to apply for restoration.'

'E4 The doctor may apply to the Registrar for the decision to indefinitely suspend their right to re-apply for restoration to be reviewed by a tribunal after three years from the date of the decision'

9. Throughout its deliberations, the Tribunal has been mindful of the overarching objective of the GMC as set out in the Medical Act 1983 (as amended) and bore in mind its determination on Dr Sambo's application for restoration to the Register. This determination

should be read in conjunction with the detailed findings set out in that determination.

10. The Tribunal is mindful that this was Dr Sambo's second application for restoration. However, notwithstanding that his application for restoration has not been granted, the Tribunal did not consider that his application was frivolous. It has determined that whilst he had not developed sufficient insight or sufficiently remediated his misconduct to such an extent that this Tribunal could conclude that he was fit to return to unrestricted practice, the Tribunal nevertheless has noted that he has taken some, albeit insufficient, positive steps to addressing these issues.

11. The Tribunal has also noted that Dr Sambo has taken some steps to keep his clinical knowledge up to date and that he is committed to returning to practice.

12. In the circumstances, the Tribunal did not consider it appropriate or proportionate to indefinitely suspend Dr Sambo's right to re-apply for restoration. However, if he is to make a successful application in future, he should be mindful that he will need to demonstrate to a future Tribunal that he has addressed the insight and remediation concerns identified in both this, and the previous Tribunals' determinations. In addition, he will also have to demonstrate that he has kept his knowledge and clinical skills up to date such that he could be considered fit to return to unrestricted practice. This may well prove challenging given the lengthy period of time that has elapsed since the sanction of erasure was imposed.

13. The Tribunal therefore concluded that in all the circumstances, it was not in the public interest, at this time, to prevent Dr Sambo making a further application in the future for restoration.

14. Accordingly, the Tribunal determined not to indefinitely suspend Dr Sambo's right to re-apply for restoration.

15. That concludes the case.