

PUBLIC RECORD

Dates: 20/03/2024

Medical Practitioner's name: Dr James WHITE

GMC reference number: 7493690

Primary medical qualification: MB BS 2015 University of East Anglia

Type of case	Outcome on impairment
Review - Misconduct	Impaired

Summary of outcome

Erasure

Tribunal:

Legally Qualified Chair	Mrs Fiona Barnett
Lay Tribunal Member:	Ms Liz Daughters
Medical Tribunal Member:	Dr Ranjana Rani

Tribunal Clerk:	Miss Maria Khan
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Attendance and Representation:

Medical Practitioner:	Not present, not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Mr Lewis Kennedy, 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

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

The Outcome of Applications Made during the Impairment Stage

2. The Tribunal found that notice of hearing had been properly served on Dr White as required by Rule 40 of the Rules. It granted the GMC's application to proceed in the absence of Dr White under Rule 31 of the Rules. The Tribunal's full decision is set out below, at Annex A.

Background

3. Dr White qualified in 2015 from the University of East Anglia (UEA) and gained full GMC registration in 2016.

4. On 24 February 2019, Dr White was referred to the GMC via an online complaint from a doctor who had attended UEA with him. The complainant stated she had received unwanted sexually explicit pictures and messages from Dr White over the last few months. Subsequently, she had discovered that other women in the same medical graduating class had also received similar material. The complainant stated that she was concerned for XXX and also because he was a doctor.

5. On 26 February 2019 the GMC received another complaint about Dr White from a fellow student at UEA. This complaint stated that Dr White had sent explicit messages, photographs and videos of himself to numerous female colleagues.

6. The GMC obtained six witness statements from individuals who each described receiving explicit content from Dr White, including videos of Dr White masturbating, sexually explicit texts and images of him bare chested and of his penis.

7. On 13 March 2019, the GMC wrote to Dr White and requested that he complete and return a Work Details Form ('WDF') by 4 April 2019. Despite being chased to return a completed form, the document was never returned.

8. The concerns that led to Dr White’s hearing can be summarised as relating to alleged misconduct which took place between 2015 and 2019, during which Dr White sent inappropriate messages, which included images and videos of himself, to six women who had been fellow students at medical school. It was alleged that his actions were sexually motivated. It was also alleged that on two occasions in March 2019, Dr White failed to return a completed WDF to the GMC when asked to do so.

The 2023 Hearing

9. A Medical Practitioners Tribunal (‘MPT’) convened to consider Dr White’s case on 20 to 24 February 2023 (‘the 2023 Tribunal’). Dr White was neither present nor represented at the hearing and did not seek to give evidence in his defence. He did not accept or deny any particulars of the Allegation.

10. The Tribunal was provided with witness statements from the six women, along with emails and screenshots of text messages and photographs allegedly sent by Dr White. No witnesses were called to give oral evidence or answer questions at the facts stage of the hearing. The GMC relied on evidence adduced in the hearing bundles provided.

11. The Tribunal accepted the veracity and accuracy of all the unchallenged witness statements. The Tribunal found the accounts to be plausible and consistent and that they were corroborated by screenshots and other relevant images.

12. The Tribunal found as fact that Dr White repeatedly sent unsolicited sexual messages and images to the six former medical students between 2015 and 2019, and these were all found to be sexually motivated.

13. In relation to the WDF, The Tribunal found as fact that the GMC had sent investigation letters to Dr White’s registered home address on two occasions in March 2019. The letters detailed the investigation process and required Dr White to complete a WDF by a specified date. The Tribunal also found proved that Dr White failed to return the completed WDFs to the GMC.

14. The Tribunal took into account the various negative responses to the unwanted words and images. Dr A was concerned about Dr White’s potential access to sedated patients should he work as an anaesthetist. Dr B was concerned about XXX and the consequences of making a complaint about it. Dr C was ‘*uncomfortable*’ about Dr White being around vulnerable patients, junior doctors and colleagues, in view of his behaviour. Dr D found the messages ‘*worrying*’ and was uncomfortable to receive them. Dr E was concerned that Dr White had gone out of his way to find her as she had the highest level of security on Facebook. The images, in particular, evoked a sense of unease. Ms F was shocked, confused, uncomfortable and embarrassed on receipt of unwanted sexual messages and images from Dr White.

15. The Tribunal determined that Dr White’s sexually motivated behaviour would be condemned by other health professionals and informed members of the public. It could be described as morally culpable or disgraceful misconduct, albeit outside professional medical practice.

16. The Tribunal considered that Dr White, by not providing his WDF as requested by the GMC, demonstrated a lack of engagement with the organisation responsible for ensuring that doctors are properly regulated, patients adequately protected and public confidence maintained in the medical profession. The Tribunal considered this to be a serious omission in the context of Dr White’s professional medical practice, as members of the public would be concerned by a doctor’s failure to provide vital information to the GMC.

17. The Tribunal concluded that Dr White’s actions amounted to serious misconduct.

18. Having determined that Dr White’s actions amounted to misconduct that was serious, the 2023 Tribunal went on to consider whether his fitness to practise was impaired.

19. The 2023 Tribunal took into account the gravity of Dr White’s actions and found that he had breached fundamental tenets of the medical profession as well as paragraphs 36 and 37 of *Good medical practice* (2013, as amended):

36 You must treat colleagues fairly and with respect.

37 You must be aware of how your behaviour may influence others within and outside the team.

The Tribunal considered that Dr White had sent unsolicited, sexual messages and images to former medical students repeatedly between 2015 and 2019. He had not demonstrated fairness or respect to the six recipients, who were distressed by his behaviour, as well as concerned. His behaviour continued even after realizing he had overstepped boundaries and apologised to some recipients.

20. The 2023 Tribunal accepted that while there was no evidence that Dr White posed a risk to the physical safety of patients, its findings indicated a risk of future psychological harm to anyone, including patients, who became aware of a doctor ‘cyber-flashing’ women or similar misconduct. Additionally, the Tribunal found that Dr White’s conduct did not justify patients’ trust in doctors or public trust in the profession and had potential to bring the medical profession into disrepute.

21. The 2023 Tribunal had regard to a written statement provided by Dr White and considered that Dr White had shown insufficient insight into the seriousness of his behaviour and its potential consequences. Although Dr White apologised for his behaviour and expressed remorse in his statement, the 2023 Tribunal had scant evidence of reflection into the catalysts for his actions, remediation or risk reduction strategy. This indicated that any future risk had not been assessed or minimised and the 2023 Tribunal concluded, therefore,

that Dr White may be liable in the future to put a patient or patients at unwarranted risk of harm and/or bring the medical profession into disrepute and/or breach one of the fundamental tenets of the medical profession.

22. Accordingly, the 2023 Tribunal considered that a finding of impairment was required to protect patients and others, to declare and uphold professional standards and to maintain public trust and confidence in doctors and concluded that Dr White's fitness to practise was impaired by reason of misconduct.

23. When considering the appropriate and proportionate sanction to impose, the Tribunal first balanced the aggravating and mitigating factors. Aggravating factors included: the misconduct was sexually motivated; six women were adversely affected by Dr White's actions; even after apologising, Dr White repeated the misconduct; the misconduct was persistent and covered a period of four years. The mitigating factors included: Dr White had denied no part of the Allegation; Dr White's expressions of remorse; lapse of time since the last incidence of misconduct and no evidence of repetition; no previous concerns about his fitness to practise; Dr White's allusions to the harm caused by his actions and his regret; in 2019 Dr White described XXX.

24. In balancing aggravating and mitigating factors, the Tribunal attached most weight to the fact Dr White's misconduct was sexually motivated and also repeated. In terms of mitigation, the Tribunal took account of his shame and remorse expressed in emails to the GMC, supported by the fact that there have been no further complaints.

25. Despite the absence of XXX, the Tribunal considered that Dr White was concerned about himself XXX. This suggested that personal or professional stressors may have been a background or precipitating factor.

26. The Tribunal then considered each sanction available to it, starting with the least restrictive. The Tribunal concluded that given the serious nature of Dr White's misconduct, to take no action would not be in the public interest, or proportionate.

27. The Tribunal considered that no condition/s would be appropriate to deal with any risk of repetition of Dr White's misconduct or to satisfy the need to maintain public confidence in the medical profession.

28. The Tribunal then went on to consider whether imposing a period of suspension on Dr White's registration would be appropriate and proportionate. It took into account that there is a public interest in facilitating the safe return to work of an otherwise competent doctor, so complete removal of Dr White's name from the medical register would not be proportionate, taking account of Dr White's partial insight, his remorse and the lack of evidence of repetition. The Tribunal did not consider that there was a significant risk of repetition of similar misconduct in view of Dr White's shame and concern for those impacted.

29. The 2023 Tribunal was of the view that the misconduct was not fundamentally incompatible with continued registration. Therefore, a sanction of erasure would not be appropriate or proportionate and the Tribunal concluded that a period of suspension would be the most appropriate sanction and meet the statutory overarching objective.

30. The 2023 Tribunal determined to suspend Dr White's name from the medical register for 12 months. This would provide sufficient time for him to reflect on triggers for his misconduct, XXX, develop empathy for those impacted by his behaviour and demonstrate steps taken to remediate.

31. To minimise any risk of future misconduct, the 2023 Tribunal considered it essential that a review Tribunal consider whether Dr White is fit to practise before the end of his 12 month suspension and therefore directed a review of Dr White's case, with the review hearing to convene shortly before the end of the 12-month suspension unless an early review was sought. The 2023 Tribunal advised that a reviewing Tribunal would be assisted by the following information:

- XXX.
- A reflective statement outlining the context of his misconduct, any changes since that time, insight into catalysts or stressors, how to avoid repetition and any treatment received or sought.
- Evidence of up-to-date Continuing Professional Development (CPD).
- Any other information considered relevant by Dr White to the issue of his fitness to practise at the time of the review hearing.

32. The 2023 Tribunal also determined that an immediate order of suspension was required to protect members of the public, promote and maintain public confidence in the medical profession and to declare and uphold standards of conduct for doctors.

Today's Review Hearing

33. This is the first review of Dr White's case after the original finding of impairment in February 2023.

The Evidence

34. The Tribunal received the Record of Determinations from the hearing on 20 -24 February 2023 as well as evidence of correspondence from the GMC to Dr White regarding his contact details, and subsequent correspondence.

35. Dr White did not provide any evidence.

Submissions

36. On behalf of the GMC, Mr Kennedy submitted that since the 2023 hearing, there had been no significant developments, concerns or any new allegations. Unfortunately, despite numerous attempts by the GMC to obtain supportive evidence from Dr White, none had been received and, accordingly, there were no material changes in circumstances of this case since it was heard by 2023 Tribunal.

37. Mr Kennedy submitted that because of Dr White's failure to engage, the Tribunal may be unable to find evidence of remediation or any steps taken to address his misconduct. Regarding Dr White's insight, Mr Kennedy told the Tribunal it would undoubtedly note that no further evidence had been adduced at this stage,

38. Mr Kennedy reminded this Tribunal that the 2023 Tribunal had some email evidence of remorse and partial insight but it was already implicit in its findings that there was a lack of insight by Dr White in not grasping the importance of engagement with the regulator and there was no further reflection on this issue. As there was no evidence, it appeared likely that any insight which Dr White may have had would be significantly limited. In any event, Dr White's insight was not adequately evidenced.

39. Mr Kennedy submitted that this Tribunal may be inclined to determine, as there was no evidence of progression regarding Dr White's level of insight, that it was still low. There still also remained scant evidence of reflection into the catalysts for his actions, any remediation, or risk reduction strategy which propelled the 2023 Tribunal into concluding that Dr White may be liable in future to put patients at unwarranted risk of harm, bring the profession into disrepute and breach fundamental tenets of the profession (factors a, b and c in the test for impairment as set out in *CHRE v NMC and Grant* [2011] EWHC 927 (Admin)).

40. Mr Kennedy submitted that the onus was on Dr White to show his fitness to practise was no longer impaired. The legal/persuasive burden and duty to convince the Tribunal that it would be safe for him to return to unrestricted practice was on Dr White. Unfortunately, Dr White had not provided what the 2023 Tribunal had asked for and had not engaged with this process.

41. Mr Kennedy acknowledged that there may be an explanation for Dr White's disengagement but for present purposes it was incumbent on Dr White to engage and he had not done so.

42. Mr Kennedy submitted that there was no supportive evidence that Dr White no longer remained impaired and that the Tribunal could not ignore the absence of any new evidence relating to reflection, remediation and insight. On the basis of this still scant state of evidence, Mr Kennedy invited the Tribunal to find that Dr White's fitness to practise remains impaired by reason of his misconduct.

The Relevant Legal Principles

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

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

45. At this stage there is a persuasive burden on the doctor to demonstrate that all of the concerns which have been identified previously have been adequately addressed and that he would be safe to return to unrestricted practice.

46. The Tribunal will have regard to paragraph 164 of the Sanctions Guidance (5 February 2024 edition) ('SG') which states:

164in 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

d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration

47. The Tribunal had regard to the statutory overarching objective to protect and promote the health, safety and wellbeing of the public, promote and maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for the members of the profession and maintain public confidence in the profession.

The Tribunal's Determination on Impairment

48. The Tribunal had regard to the fact that there was no new information in this case and no evidence from Dr White to show that he had taken any steps to address the previous concerns. Due to his lack of evidence, communication and engagement, (save for one email from him confirming an email address which later became defunct), the Tribunal could only

conclude that there had been no progression in Dr White’s insight into his actions, and that he had taken no steps to remediate his misconduct.

49. The Tribunal took into account that as well as Dr White’s sexual misconduct, there had also been a compliance breach found at the 2023 hearing. Although there had been no repetition of this as such, the fact that Dr White had consistently not engaged since the 2023 Tribunal indicated that he lacked insight into the role of his regulator. Further, because he has not engaged, the Tribunal had no idea what he has been doing since his suspension was imposed or what his current situation is in terms of keeping his skills and knowledge up to date. Apart from confirmation of his email address (which was then disabled) there had been no engagement since the 2023 hearing and the Tribunal considered this could be described as Dr White’s continuing disregard towards his regulator.

50. The Tribunal had regard to the suggestions made by the 2023 Tribunal as to what information Dr White might provide, however, and in spite of several letters from the GMC asking for that information, he had not provided it. The Tribunal took paragraph 164 of the SG into account and could not be satisfied that Dr White had fully appreciated the gravity of the offence, had kept his skills and knowledge up to date, and would be safe to practise either with or without restrictions. The Tribunal had been told by Mr Kennedy that there was no new information to suggest that the misconduct had been repeated.

51. The Tribunal had regard to the test of impairment in ‘Grant’, namely, whether the Tribunal’s findings of fact as to the misconduct indicate impaired fitness to practise in the sense that the doctor:

‘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;

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

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

d)’

The Tribunal concluded that limbs a, b and c were still engaged in this case.

52. The Tribunal recognised there may be a valid explanation for Dr White’s absence and non-engagement, however he has not provided any such explanation. As Dr White had not provided evidence to persuade this Tribunal that he has insight into his misconduct and is fit to practise, the Tribunal found that the risk of repetition identified by the 2023 Tribunal currently remains. Patients, colleagues and other members of the public remain at risk of harm, he is still liable to bring the profession into disrepute, and is still liable to breach a fundamental tenet of the profession. The Tribunal concluded that it had no option but to find

his fitness to practise remains impaired. Such a finding is necessary both to protect the public, to maintain public confidence in the profession, and to uphold proper standards of professional conduct.

53. The Tribunal therefore determined that Dr White's fitness to practise remains impaired by reason of misconduct.

Determination on Sanction - 20/03/2024

54. Having determined that Dr White's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to Dr White's registration.

The Evidence

55. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing where relevant to reaching a decision on what action, if any, it should take with regard to Dr White's registration.

Submissions

56. On behalf of the GMC, Mr Kennedy submitted that the appropriate and proportionate sanction in this case was one of suspension.

57. Mr Kennedy submitted that the Tribunal might consider Dr White's lack of insight after a suspension of 12 months and his failure to provide evidence by his disengagement was a matter of aggravation. However, Dr White's misconduct had occurred in non-clinical setting with no clinical performance issues and no direct risk to patient safety.

58. Mr Kennedy then reminded the Tribunal of the aggravating and mitigating factors the 2023 Tribunal had identified and the reasons for its final decision that a period of suspension would be sufficient to address Dr White's misconduct. He submitted that a further suspension would provide Dr White more opportunity to engage with his regulator and this process and respond with evidence of remediation and development of his insight.

59. Mr Kennedy referred the Tribunal to the case of *Wisniewska v NMC* 2016 EWHC 2672 in which it is stated that where there are only two options for sanction such as striking off or suspension, it is critical that the available mitigation is applied when evaluating the proportionality of a suspension as well as when considering erasure. Although mitigation can reduce the length of suspension, it could also pull a case back from the brink of strike-off and mean that a suspension is proportionate. Mitigation must be assessed by the tribunal when looking at both these issues.

60. Mr Kennedy submitted that this Tribunal might think this an exercise in futility in respect of current lack of evidence, however, the Tribunal could impose a further period of

suspension and direct a review hearing, clarifying that the onus will be on Dr White to demonstrate that he has developed insight and show how he has remediated his misconduct. This Tribunal could impose the same requirements for a reviewing Tribunal with the rider that should Dr White fail to demonstrate what was required, the second reviewing Tribunal might determine it had little option other than to erase.

61. Mr Kennedy submitted that Dr White was not *'not quite at the end of the road yet'*, and that he should be afforded this final opportunity.

Relevant Legal Principles

62. The Tribunal's decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgment. In making its determination the Tribunal should consider the least restrictive sanction first, before moving on to consider the other available sanctions in ascending order of severity. The Tribunal should note 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. The Tribunal should also consider proportionality by weighing the public interest against the interests of the doctor.

63. In reaching its decision the Tribunal should take into account the submissions from the GMC in conjunction with the SG and the statutory overarching objective: protecting and promoting the health, safety and well-being of the public, promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct.

The Tribunal's Determination

No action

64. In reaching its decision as to the appropriate sanction, if any, to impose in Dr White's case, the Tribunal first considered whether to conclude Dr White's case by taking no action. Taking no action is only considered appropriate where there are exceptional reasons for doing so and the Tribunal concluded that there were no exceptional circumstances in this case. The Tribunal therefore determined that taking no action would be inappropriate.

Conditions

65. The Tribunal next considered whether it would be sufficient to impose conditions on Dr White's registration. It bore in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable. It decided that conditions would neither be appropriate nor proportionate for the following reasons:

- The Tribunal was mindful that Dr White's registration had been subject to a suspension of 12 months, and that his fitness to practise remained impaired upon review. There was no evidence before the Tribunal that Dr White had kept his skills

and knowledge up to date, or that there was any support mechanism in place, and therefore it could not be satisfied that he was safe to work, even with restrictions.

- The Tribunal also took into account the allegations of non-compliance and the lack of Dr White’s insight or understanding (or unwillingness to understand) the role of his regulator. Dr White had been required to provide important information and twice did not provide it. The Tribunal had regard to the fact that Dr White had also not complied with the 2023 Tribunal’s recommendations on the evidence to be provided for this reviewing Tribunal, and that he ceased all contact, disregarding any letters from the GMC requesting this information. Considering Dr White’s lack of engagement and lack of compliance, the Tribunal could not be satisfied that Dr White would comply with conditions even if they were appropriate.
- The Tribunal then considered the 2023 Tribunal’s findings relating to Dr White’s sexual misconduct and its seriousness. It concluded that given the seriousness of the misconduct, and Dr White’s failure to engage, conditions were an insufficient measure to uphold the wider public interest. The public would expect a more onerous sanction in all the circumstances.

Suspension

66. The Tribunal next considered whether to extend the suspension currently imposed on Dr White’s registration. It was mindful that at the 2023 hearing, Dr White had provided the Tribunal with some information (albeit limited), and it had decided that although he had not remediated his misconduct, he had some insight into it and had shown some remorse. The 2023 Tribunal imposed a period of suspension to ensure that the overarching objective was upheld, whilst enabling Dr White time to further develop his insight, and to undertake steps to remediate his misconduct.

67. At that time, Dr White’s misconduct already dated back as far as 2015. Now, some nine years after the onset of his misconduct, Dr White has had a further period of time to reflect and take appropriate steps to remedy his misconduct. He has not taken that opportunity, but has, in fact, ceased to communicate with the GMC via an email address he has previously provided, and avoided telephone calls.

68. The Tribunal could only infer, from this disengagement and from the absence of evidence of remediation and insight, that Dr White does not want to engage with his regulatory body and does not want to take appropriate steps to persuade a Tribunal that he is now fit to practise. The absence of any information from Dr White serves as an aggravating factor which makes the position now worse than it was at the 2023 Tribunal, which had some limited information from him.

69. The Tribunal concluded that the suspension imposed by the 2023 Tribunal has not served its purpose. It could identify no justification for imposing a further period of suspension when Dr White has demonstrated, by his actions, that he does not wish to engage

with this regulatory process and does not wish to remediate any aspect of his misconduct. The Tribunal concluded that extending the current suspension was not a proportionate or appropriate sanction in all the circumstances.

Erasure

70. The Tribunal therefore considered erasure. The 2023 Tribunal had decided that erasure would be disproportionate. However, as stated above, the position is now worse than it was at the time of the last hearing. Dr White has shown that he does not want to engage, even though the onus is on him to satisfy the Tribunal that he is fit to practise.

71. Dr White had shown some insight in his responses to the 2023 Tribunal. However, in the absence of any evidence from him in the 13 months since then, this Tribunal concluded that the absence of meaningful insight is now persistent. Dr White did not attend the 2023 hearing and had explicitly advised at that time that he did not wish to be registered with the GMC. He stated, *“I recognise the harm that this has caused and strongly advise the deciding body to strip me of my medical title”*. The Tribunal therefore concluded that even though the misconduct was not fundamentally incompatible with continued registration in 2023, it has now become so, because Dr White does not wish to address his misconduct and prove that he can return to safe practice.

72. The overarching objective of the GMC is the protection of the public. However, that objective cannot be achieved in a case where a Doctor who has been guilty of sexual misconduct and regulatory non-compliance is permitted to remain on the register when he has evidenced no desire to remediate his misconduct, having been given an opportunity to do so. The Tribunal concluded in all the circumstances, that the misconduct is now fundamentally incompatible with continued registration, by virtue of Dr White’s unwillingness to remediate it. Erasure is the only appropriate and proportionate sanction to ensure that the overarching objective is upheld. Any sanction less than erasure would be insufficient to protect the public, maintain public confidence in the medical profession and to uphold proper standards of conduct and behaviour.

73. The Tribunal has directed to erase Dr White’s name from the Medical Register. The MPTS will send Dr White a letter informing him of his right of appeal and when the direction and the new sanction will come into effect. The current order of suspension will remain in place during the appeal period.

ANNEX A – 20/03/2024

Service and Proceeding in Absence

Service

74. Dr White was neither present nor represented at this hearing. The Tribunal considered whether notification of this hearing had been properly served upon Dr White.

75. The Tribunal was provided with a copy of a Service bundle from the GMC. This included a GMC information letter dated 8 February 2024 enclosing the proposed draft hearing bundle, and the Medical Practitioners Tribunal Service ('MPTS') notice of hearing letter dated 13 February 2024. The letters were sent to Dr White at his last known postal address, with proof of delivery provided for both.

76. The GMC register showed that Dr White's current registered address was, "no fixed abode". Further, an email address at which the GMC had previously corresponded with Dr White had now been disabled. As Dr White had no fixed abode and other methods of contact had been exhausted, the MPTS emailed the GMC on 29 January 2024 regarding the instruction of an enquiry agent to ascertain Dr White's location. Based on these enquiries, the GMC information letter and MPTS notice of hearing letter were sent to an address which was confirmed to be an address which *'has the strongest current association with Dr White'*. This address had in fact been Dr White's previous registered address with the GMC. The MPTS advised that *'this is the address to which the listing notification will be sent, and the Notice of Hearing in due course, for the forthcoming review hearing and satisfies the requirements for service...'*. The notice of this hearing was therefore sent to Dr White's last known postal address.

77. Mr Lewis Kennedy, Counsel, on behalf of the GMC submitted that notice of this hearing had been properly served, as required by Rule 40 of the Rules. Mr Kennedy reminded the Tribunal that Dr White was not present or represented at his substantive hearing in 2023, nor had he provided any evidence for this hearing.

78. Mr Kennedy referred the Tribunal to Rule 31 of the Rules which states:

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

79. Mr Kennedy referred the Tribunal to the proof of service bundle and referred to the attempts the GMC had made to contact Dr White and serve the notice of hearing. He submitted that all reasonable efforts had been made to serve Dr White with the notice of this hearing in accordance with the Rules. In these circumstances, with Dr White being *'off the radar'*, Mr Kennedy invited the Tribunal to proceed in Dr White's absence.

80. The Tribunal had regard to the fact that sending a notice of hearing by post was acceptable. The notice for this hearing had been sent within the correct timescales, contained the correct information about the hearing and was sent to Dr White's last known address. The responsibility of the GMC was solely to send the notice and prove it had been sent, which they had done.

81. The Tribunal determined, therefore, that notice of this hearing had been served on Dr White in accordance with Rules 20 and 40 of the Rules, and paragraph 8 of Schedule 4 to the Medical Act 1983, as amended.

Proceeding in Absence

82. The Tribunal then went on to consider whether it would be appropriate to proceed with this hearing in Dr White's absence pursuant to Rule 31 of the Rules. The Tribunal was conscious that the discretion to proceed in the absence of the doctor should be exercised with caution, balancing the interests of the doctor with the wider public interest and ensuring fairness to both parties.

83. In deciding whether to proceed with this hearing in Dr White's absence, the Tribunal carefully considered all the information before it.

84. The Tribunal noted the relevant case law in determining whether to proceed in the absence of a practitioner, in particular the case of *GMC v Adeogba* [2006] EWCA Civ 162 and *R v Jones* 2002 UKHL 5

85. The Tribunal was satisfied that Dr White had largely disengaged from this regulatory process from the time of his substantive hearing in 2023. He had not attended the substantive hearing and had explicitly advised at that time that he did not wish to be registered with the GMC. Since then, Dr White has taken measures to ensure the GMC could not contact him, by disabling an email address which had previously been used for correspondence and by not maintaining an effective registered address. Further, notes of attempts to telephone Dr White showed that the number on record was no longer in use. The GMC had made numerous efforts to contact him, all to no avail. The Tribunal therefore had no hesitation in concluding that Dr White did not wish to engage with these proceedings and had voluntarily absented himself from this hearing.

86. The Tribunal found nothing to indicate that if this hearing was adjourned that there would be a different outcome. Dr White had not sought an adjournment in any event.

87. The Tribunal bore in mind that there was a public interest in the expeditious disposal of this hearing, given that the suspension is due to expire shortly.

88. In accordance with Rule 31, the Tribunal determined that all reasonable efforts had been made to serve the notice, and there was no good reason to adjourn the hearing. It

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concluded that it would be in the public interest for this hearing to proceed without further delay and that it would be in the interests of justice to proceed in the absence of Dr White.