

PUBLIC RECORD

Dates: 24/10/2022 - 28/10/2022

Medical Practitioner's name: Dr Jessica WILLS

GMC reference number: 7554467

Primary medical qualification: MB BS 2017 St George's Hospital Medical School

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

Summary of outcome
Suspension, 3 months.

Tribunal:

Legally Qualified Chair	Miss Megan Larrinaga
Lay Tribunal Member:	Mr Darren Shenton
Medical Tribunal Member:	Dr Keith Dunnett

Tribunal Clerk:	Mr Sewa Singh
-----------------	---------------

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Lee Gledhill, Counsel (Direct instruction – Doctors Defence Service)
GMC Representative:	Mr Christopher Hamlet, 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 - 27/10/2022

1. The Tribunal has decided that, as this determination contains information relating to XXX, the determination will be handed down in private session. A redacted version of the determination will be published at the conclusion of the hearing.

Background

2. Dr Wills qualified with an MBBS from St George's Medical School, London in 2017. Between 2017 and 2018 she undertook her Foundation Year 1 ('FY1') at Cheltenham General Hospital and completed her Foundation Year 2 ('FY2') at Gloucester Royal Hospital ('GRH') between 2018 and 2019.

3. During her FY1 training, Dr Wills was involved as a member of the Junior Doctor's Mess ('the Mess'). The Mess is a communal area in a hospital where junior doctors can work, study or relax during their shifts. The Mess at GRH provides refreshments such as hot and cold drinks, snacks, cereals and a seating area. It also provides funds for sports teams as well as regular social events including an annual summer and Christmas balls and monthly payday parties. All Junior Doctors at GRH can use the Mess area. However, in order to take part in events and make use of the refreshments, Junior Doctors must contribute £15.00 per month from their salary.

4. In August 2018, Dr Wills was appointed as President of the Mess. In her role as President, she was responsible for organising a weekly food shop, regular pizza deliveries and the social events. Dr Wills had sole access to the Mess bank account including the debit card for the account. She was not required to provide an ongoing record of Mess spending.

5. Shortly after taking her position as Mess President, Dr Wills began using the funds from the Mess bank account for her personal use. The allegation against Dr Wills can be summarised as between July 2018 and September 2019, Dr Wills inappropriately used the Mess bank account to pay for one or more personal transactions and transferred money from the Mess bank account to her personal bank account on one or more occasions. It was also alleged that her actions were dishonest.

6. Dr Wills' tenure as Mess President naturally came to an end in August 2019 when a new Mess President, Dr B and a new Treasurer, Dr C were appointed. Dr Wills advised Dr B that the Mess account had insufficient funds to pay the invoice for the summer ball. Following a review of the Mess bank accounts, Dr B noted a number of transactions where it was unclear whether the money had been spent for the benefit of the Mess. Dr C contacted Dr Wills by email for clarification and Dr Wills explained that there had been a mix-up between her personal bank card and the Mess bank card which accounted for some of the transactions which had been queried. Dr Wills also told Dr B that instances where money had been transferred from the Mess bank account to her own were in circumstances where she had made payments on behalf of the Mess and she was reimbursing herself.

7. On 8 August 2019, Dr Wills transferred the sum of £577.76 from her own personal to the Mess bank account. Further investigations by Dr C into the Mess bank account highlighted additional transactions which were considered unusual for the Mess. These transactions included payments to XXX. Having identified further unusual payments, Dr B and Dr C decided to escalate the matter to the Trust's Programme Director. Dr Wills was informed of this on 11 September 2019. On 2 October 2019, Dr Wills transferred a further £700 to the Mess bank account. In total the amount of Mess funds used by Dr Wills for her own use exceeded £4,400.

8. On 12 February 2021, the Gloucestershire Hospitals NHS Foundation Trust ('the Trust') referred Dr Wills to the GMC.

The Allegation and the Doctor's Response

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

1. Between July 2018 and September 2019 you were the President of the Junior Doctors' Mess ('the Mess') Committee at Gloucestershire Hospitals NHS Foundation Trust and you inappropriately:

a. used the Mess bank account to pay for one or more of the personal transactions set out in Schedule 1;

Admitted and found proved

b. transferred money from the Mess bank account to your personal bank account on one or more of the occasions set out in Schedule 2 **and** Schedule 3.

(Amended under Rule 17(6))

Admitted and found proved

2. You knew that you were not entitled to:

- a. use the Mess bank account to pay for one or more of the personal transactions set out in Schedule 1;
Admitted and found proved
 - b. transfer money from the Mess bank account to your personal bank account on one or more of the occasions set out in Schedule 2;
Admitted and found proved
 - c. transfer the full amount of money from the Mess bank account to your personal bank account on one or more of the occasions set out in Schedule 3.
Admitted and found proved
3. Your actions as described at paragraph(s):
- a. 1a were dishonest by reason of paragraph 2a;
Admitted and found proved
 - b. 1b were dishonest by reason of paragraphs 2b **and 2c.**
(Amended under Rule 17(6))
Admitted and found proved

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.

The Outcome of Applications Made during the Facts Stage

10. The Tribunal granted three applications made by Mr Hamlet, Counsel for the GMC, to amend the Allegation, all of which were uncontested.
11. On Day 1 (24 October 2022), Mr Hamlet applied to amend paragraph 1(b) to read:
- ‘b. transferred money from the Mess bank account to your personal bank account on one or more of the occasions set out in Schedule 2 and Schedule 3.’
- and paragraph 3(b) to read:
- ‘b. 1b were dishonest by reason of paragraphs 2b and 2c.’
- and the date in the fourth entry in Schedule 2 to read ‘2 January 2019’.
12. On Day 2 (25 (October 2022), Mr Hamlet applied to amend Schedule 3 to read:

**Record of Determinations –
Medical Practitioners Tribunal**

Date	(£) Amount	Reference	<u>Of which amount you were not entitled to (Amended under Rule 17(6))</u>
18 January 2019	£336.30	XXX	<u>£255.27</u>
17 July 2019	£395.00	XXX	<u>£245.00</u>

13. The Tribunal’s determination in respect of the applications is set out at Annex A.

Admissions

14. Dr Wills, through her Counsel Mr Gledhill, admitted the entirety of the amended Allegation, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (‘the Rules’). In accordance Rule 17(2)(e), the Tribunal announced the entirety of the Allegation as admitted and found proved.

The Facts to be Determined

15. With the facts having been admitted and found proved, the Tribunal now has to determine whether Dr Wills’ fitness to practise is impaired by reason of her misconduct in accordance with Rule 17(2)(l) of the Rules.

Witness Statements and Documentary Evidence

16. The Tribunal had regard to witness statements and documentary evidence provided by the parties. This evidence included but was not limited to:

- Witness statement from Dr B, incoming President for the Mess in August 2019 dated 21 June 2019;
- Witness statement from Dr C, incoming Treasurer for the Mess in August 2019, undated;
- Witness statement from Mr D, Deputy Mess President, dated 27 October 2021;
- Witness statement from Dr A, Consultant in Emergency Medicine at the Trust, dated 28 October 2021;
- Referral from the Trust dated 12 February 2021;
- Emails between Dr B, Dr C and Dr Wills in relation to handover of the mess accounts;
- Excel spreadsheets setting out transactions from the Mess bank accounts between May and August 2019;
- Mess bank account statements;
- Dr Wills’ personal statement, undated
- Annotations from Dr Wills on Mess bank account transactions;
- XXX
- Dr Wills’ CV;

- Dr Wills CPD Certificates;
- Dr Wills' reflections on her CPD training; undated;
- Testimonials on behalf of Dr Wills'; various dates
- Feedback forms on Dr Wills' clinical performance provided by her colleagues;

17. Dr Wills gave oral evidence at the hearing. The Tribunal also received oral evidence from Dr A on behalf of Dr Wills.

18. In her oral evidence to the Tribunal, Dr Wills stated that she volunteered to become Mess President as she had always wanted to be involved in the Mess and she considered it was akin to a social committee. In her written evidence, Dr Wills stated that on taking over as Mess President she wished to provide a good social outlet for doctors at the Trust. Her evidence was that she never intended to use the Mess funds for her own personal use. However, at the time she was facing financial difficulties, which were, in part, a result of XXX.

19. Dr Wills' evidence to the Tribunal was that XXX. As a consequence of XXX, she would spend excessive amounts of money which led to her getting into debt. XXX. As a result, at the end of her FY1 training, and before she took over as the Mess President, XXX. Dr Wills stated that she once again sought help XXX.

20. Dr Wills' written and oral evidence to the Tribunal was that as a result of XXX, she began spending excessive amounts of money and once again was in financial difficulty. XXX. Dr Wills' evidence was that XXX meant she felt a great amount of guilt and shame and as XXX, she was too ashamed to ask XXX for help again, and had no one else to turn to. She stated that she did not think that she would be able to ask a bank for help with her finances. In addition to her financial difficulties, Dr Wills stated that she was feeling left behind by her peers, was not feeling like a good doctor and was lonely. Her evidence was that she felt XXX, feeling lonely and her financial situation which left her feeling alone, ashamed and with nowhere to turn. With a need to fund XXX her difficult financial situation, within a month of becoming Mess President she used the Mess funds for her own personal use.

21. Dr Wills evidence was that she did not take the position as Mess President in order to gain access to the funds and support her through her financial difficulties. Her evidence to the Tribunal was that, as she was spending the money she had on the consequences of XXX, she did not have enough money to meet her other financial obligations. As such when she did not have enough of her own money, she would then use money from the Mess bank account or use the Mess bank card to pay for her personal transactions. Dr Wills stated that she always knew what she was doing was wrong and that what she had done would be discovered. She stated that XXX and as she felt she had nowhere to turn, XXX meant she was able to rationalise what she was doing. She stated that each time she would take money from the Mess bank account, to which she was not entitled, she would convince herself that it would be the last time and she would pay it back next month. However, such was her financial situation, at the end of the next month she was unable to do so and she would then need to use the Mess funds again.

22. Dr Wills accepted that when she was first asked about the suspicious transactions on the Mess bank account by Dr C she had lied in seeking to provide an explanation for the transactions. She also accepted that she had dishonestly used the Mess funds over a lengthy period of time for her own personal gain, that she used money belonging to her friends and colleagues and that individually and in totality her actions amounted to an abuse of position. Her evidence was that she was not seeking to blame XXX for her actions but that it was a significant factor in her conduct and provided an explanation. She stated that there was no malice in her actions and she didn't take the money for greed. She acknowledged that her actions had a huge impact on the Mess, that it was unable to do the things it would normally do and had been deprived of the money she took.

23. Dr Wills stated that when contacted by Dr B and Dr C, she knew what she had done would be discovered and she offered to sit down with them and go through the transactions. She stated that at this stage she was XXX and her offer to sit down with someone was an opportunity to try and resolve the matter. She stated at this stage she still felt unable to disclose what she had done. Her evidence was that she received no response to her offer. Dr Wills stated that since being referred to the GMC, she had looked carefully at the Mess bank account and cross referenced it with her own account to get a clearer idea of how much money she took from the Mess during her time as President. She stated that it was clear that some transactions were for personal use. However, she stated there were a number of transactions where money could have been transferred from the Mess account to her own account for legitimate reasons i.e. where she had incurred expenses on behalf of the Mess and she was simply repaying it. She stated that where there was any doubt over the nature of a transaction, she added it to the amount to be repaid to the Mess. Dr Wills stated that she eventually repaid £6,832.00 to the Mess which included an amount of interest. She stated that she had also sent a letter of apology to the Mess' generic email address but had received no response. She apologised to the Mess in her oral evidence and acknowledged that her actions had a significant impact on Dr B and Dr C, her friends and colleagues whose money she took. She also acknowledged that she had damaged public confidence in her as a doctor.

24. Dr Wills stated that, following discovery of her actions, and the matter having been referred to the GMC, she has worked hard to XXX. She said despite significant stress including during the Covid-19 pandemic she had not resorted to XXX. She stated that her financial circumstances were also significantly improved. She has XXX and had saved XXX in the last two years. Her evidence was that her actions being uncovered forced her to be open with her parents and her partner about the extent of XXX and the impact it had and as a result she is now more open with them. Dr Wills described the three day Ethics course as a '*real eye opener*' and said it helped her to better understand the underlying causes of her behaviour and how she got herself into the situation she did.

25. Dr Wills' evidence was that she would always have to live with XXX. She stated that she has put in place coping techniques and is now open about needing and seeking support from not only her family and friends but also her supervising colleagues at work. Her evidence was that she was also enjoying her current placement and she has found specialities in medicine which she loves and is enjoying working in. She stated that she is fundamentally a

good and honest person, with strong morals, and that her actions do not reflect who she truly is. She stated that XXX affected her reasoning and decision making but now she was happy XXX and had no intentions of ever repeating her dishonest behaviour.

Submissions on Misconduct and Impairment

For the GMC

26. Mr Hamlet reminded the Tribunal that the consideration of impairment was a two stage process: firstly whether the facts found proved amounted to serious misconduct; and then secondly, whether Dr Wills' fitness to practise is currently impaired.

27. He submitted that conduct must be serious and that a simple departure from standards was not enough. Mr Hamlet stated that Dr Wills' actions involved dishonesty and an abuse of a position of trust. He submitted that there could be little by way of debate that her actions should be viewed as misconduct.

28. In relation to impairment, Mr Hamlet submitted there was both a public and personal component. With regard to the personal component he invited the Tribunal to consider whether there was a risk of Dr Wills repeating the same or similar conduct. He submitted that dishonesty was not easily remediable and asked the Tribunal to consider whether Dr Wills' behaviour was a product of her attitude or judgement at the time. He referred the Tribunal to the test set out in Dame Janet Smith's Fifth Shipman Report and endorsed in the case of ***Council for Healthcare Regulatory Excellence v the Nursing and Midwifery Council and Grant [2011] EWHC 927 (Admin)*** in determining whether a registrant's fitness to practise is impaired by reason of misconduct. Mr Hamlet conceded there were no clinical concerns in respect of Dr Wills' conduct. However, he submitted that the remaining limbs of the test were engaged as Dr Wills' conduct had brought the medical profession into disrepute, had breached a fundamental tenet of the profession and she had admitted to acting dishonestly. He stated that the Tribunal needed to consider whether Dr Wills' integrity could no longer be relied on.

29. Mr Hamlet acknowledged that Dr Wills had made full admissions to the entirety of the Allegation at the outset of these proceedings, had refunded the money to the Mess in full, had appropriately reflected on her conduct, attended relevant courses and had fully co-operated with these proceedings. He submitted that the question for the Tribunal was whether Dr Wills had fully remediated her misconduct such that there was no risk of repetition of her behaviour and the continuing impact of her behaviour of public trust on the profession.

30. Mr Hamlet submitted that Dr Wills' actions were serious, and that within the first month of becoming President of the Mess, began to abuse her position by using money from the Mess account for her personal gain. He reminded the Tribunal that the abuse of her position continued throughout her tenure, knowing that what she was doing was wrong. Mr Hamlet submitted that Dr Wills' attendance on the CPD courses had not led to the

development of insight in this regard, as she already knew what she was doing was wrong, but she continued to access the money despite that knowledge. He also reminded the Tribunal that Dr Wills did not cease accessing the Mess funds of her own volition but had only stopped following the intervention of others. He submitted that had she continued to occupy the role of Mess President her offending would have continued for longer.

31. Mr Hamlet submitted that the Tribunal should approach the issue of XXX with a degree of caution, stating that her dishonesty was not an inevitable consequence of XXX. He accepted that Dr Wills had been honest and straightforward with the Tribunal and was not seeking to mislead it with regard to the extent of XXX or the impact that it had on her. However, he submitted that her own assessment was not the best barometer for the impact of XXX. XXX. He also reminded the Tribunal that despite XXX, there was no evidence she had previously been dishonest. As such he submitted there was no evidence that XXX caused her to act as she did. He submitted that her dishonesty was a consequence of the exercise of poor judgment and should not be waived as a by-product of XXX. Mr Hamlet submitted that whilst in her evidence Dr Wills said she now better managed XXX, the Tribunal could not be satisfied there was no risk of her repeating her misconduct. He added that while Dr Wills' financial situation was now much improved, that might not always be the case. He submitted the fact that XXX did not give rise to a low risk of repetition.

32. Mr Hamlet reminded the Tribunal that when Dr Wills' conduct was first discovered her first response was to conceal what she had done. He therefore submitted there was a residual risk of repetition notwithstanding her current XXX. He reminded the Tribunal that her current good finances may change, and the Tribunal should consider her willingness to resort to dishonest conduct.

33. Mr Hamlet stated that the public component of impairment required a finding of impaired fitness to practise. He submitted that the impact of her actions continued to resonate and public trust in the profession would be damaged if there was no finding of impairment.

For Dr Wills

34. Mr Gledhill submitted that Dr Wills accepted that her actions amounted to misconduct, and that her actions in taking other people's money would be viewed as deplorable and improper. He reminded the Tribunal that it needed to consider whether Dr Wills' fitness to practise was impaired today and that the Tribunal must look forward, taking into account all that had happened. He further reminded the Tribunal that Dr Wills was of previous good character. He submitted that this was an isolated issue, albeit, it took place over a period of time.

35. Mr Gledhill submitted that Dr Wills had advanced evidence relating to XXX as being a contributing factor to her misconduct. He stated there was a significant correlation between XXX and her misconduct and further submitted that, but for XXX, the misconduct would not have occurred. Mr Gledhill submitted that Dr Wills had not sought to use XXX as an excuse for

her behaviour but that it provided some explanation for her acting in the way she did. Mr Gledhill reminded the Tribunal that XXX Dr Wills was now in a much better place and able to talk openly to her family and friends, and with her partner, XXX. He reminded the Tribunal that Dr Wills accepted that she knew it was dishonest to take the money but spending money on XXX meant she did not have money to pay her bills. Mr Gledhill submitted that Dr Wills' life had changed a great deal as a consequence of being found out she was now able to speak to others about her past and about how she will manage XXX in the future.

36. Mr Gledhill reminded the Tribunal that Dr Wills was well liked and highly regarded by her clinical colleagues including by Dr A who attended to give evidence on her behalf. He reminded the Tribunal that Dr A's evidence was that there were no concerns in the workplace about Dr Wills' integrity, that Dr Wills was open and direct with her colleagues, was a very promising trainee who had made enormous efforts to overcome her difficulties, was hard working, happy to work in any department, someone senior colleagues could trust and thought very highly of. Mr Gledhill submitted that the risk of repetition in Dr Wills' case was low, if not negligible.

37. Mr Gledhill also reminded the Tribunal that Dr Wills had repaid more than the amount she took from the Mess account. He also reminded the Tribunal that Dr Wills had apologised to the President of the Mess account but not received a reply. Mr Gledhill submitted that whilst the theft of money from the Mess account was deliberate, her actions did not arise from premeditation. He submitted that Dr Wills has developed insight XXX and into her wrongdoing. Mr Gledhill submitted that a finding of impaired fitness to practise was not necessary.

38. Mr Gledhill reminded the Tribunal that the case of **Grant** stated that it was not just the risk to the public that was important but it was also the need to uphold standards. He submitted that the Tribunal should look at the totality of the evidence in determining whether Dr Will's fitness to practise was currently impaired. He acknowledged that Dr Wills' conduct represented a serious departure from Good Medical Practice but stated that when looking at the steps she had taken in respect of XXX, her fitness to practise was not currently impaired.

The Tribunal's Approach

39. The Tribunal reminded itself that the decision on misconduct and impairment is a matter for its judgment alone. It has had regard to all of the evidence adduced during the hearing.

40. The Tribunal has borne in mind all three limbs of the statutory overarching objective: to protect and promote the health, safety and wellbeing of the public; to promote and maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of the medical profession.

41. The Tribunal must determine whether Dr Wills' fitness to practise is impaired at the date of the hearing, taking into account her conduct at the time of the events and any relevant factors since then, such as Dr Wills' insight, whether the matters are remediable, have been remedied and any likelihood of repetition.

42. In considering the dishonesty in this case, the Tribunal had regard to the relevant case law. It noted that, as set out in the case of *PSA v GMC and Uppal [2015] EWHC 1304 (Admin)* a finding of impairment does not necessarily follow a finding of dishonesty. It also noted that in the case of *Yeong v GMC [2009] EWHC 1923 (Admin)*, the court held that in cases of proven dishonesty, the balance can be expected to fall down on the side of maintaining public confidence in making a finding of impairment.

The Tribunal's Determination on Impairment

Misconduct

43. In determining whether Dr Wills' fitness to practise is impaired by reason of misconduct, the Tribunal first considered whether the facts admitted and found proved amounted to misconduct.

44. The Tribunal noted that Dr Wills had admitted dishonestly taking money from the Mess account for her own personal use for majority of her tenure as Mess President. The Tribunal noted Dr Will's acceptance that she took money from her friends and colleagues and on being asked about the transactions she initially sought to minimise the seriousness of her actions. The Tribunal acknowledged that XXX around the same time she became Mess President and that played a part in her acting in the way she did.

45. The Tribunal considered the paragraphs of Good Medical Practice ('GMP') (2013 edition) which set out the standards that a doctor must meet throughout their professional career. It considered the following paragraphs were engaged:

1 *Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*

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

46. The Tribunal considered that that Dr Will's actions in using the Mess funds for her own gain breached paragraphs 1 and 65 of GMP. It also considered that her actions were dishonest, persistent and sustained and represented a significant breach of trust of her friends and colleagues who were entitled to expect her to be honest in her financial dealings with the Mess funds. The Tribunal was satisfied that Dr Wills' behaviour would be considered

deplorable by fellow practitioners. The Tribunal was of the view that her dishonest conduct fell far short of the standards of conduct which would be reasonably expected of a doctor and was sufficient to bring the medical profession into disrepute. The Tribunal therefore determined that Dr Wills' actions amounted to misconduct.

Impairment

47. The Tribunal, having found that the facts found proved amounted to misconduct, went on to consider whether Dr Wills' fitness to practise is currently impaired by reason of her misconduct.

48. The Tribunal had regard to the judgment in the case of **Grant**, in which Mrs Justice Cox provided a helpful approach to the determination of impairment:

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

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or...*
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

49. In considering the test in **Grant**, the Tribunal accepted that there were no clinical concerns in respect of Dr Wills' practise. However, it considered that limbs (b) – (d) were engaged, particularly her dishonest conduct had brought the medical profession into disrepute, that she breached the fundamental tenet of the profession to act with honesty and integrity and that she had acted dishonestly.

50. In determining whether a finding of current impairment was necessary, the Tribunal considered whether the misconduct could be remedied while noting that matters of dishonesty are difficult to remediate. It considered the presented evidence of insight, remediation and the likelihood of repetition and balanced those against the three limbs of the statutory overarching objective.

51. The Tribunal acknowledged Dr Wills' full admissions, her apologies and her acceptance that she had behaved dishonestly. The Tribunal noted that Dr Wills had not sought to blame her misconduct on XXX but submitted it as an explanation for acting in the way she did. The Tribunal considered Dr Wills to have been open and honest in the giving of her evidence and provided clear answers to the questions put to her and never sought to minimise her dishonest conduct. It acknowledged that her written and oral evidence expressed shame, regret and remorse for what she had done, noted that she had taken steps

to repay the Mess the money she had taken and had calculated an amount of interest to take account of the fact that the Mess was without the money for a period of time. The Tribunal also noted that Dr Wills had apologised to the Mess for her behaviour. She had considered not only the impact of her actions on the Mess itself, but also on her colleagues who took over the running of the Mess and who uncovered the discrepancies caused by her actions. The Tribunal considered that Dr Wills' expressions of remorse, regret and her apologies were genuine. The Tribunal was also satisfied that Dr Wills understood the impact of her behaviour on public trust in her as a doctor. The Tribunal noted Dr Wills did not appear to have fully considered the wider impact of her behaviour on the reputation of, and public confidence in, the medical profession. However, the Tribunal was satisfied that Dr Wills' insight into her behaviour had developed well.

52. The Tribunal had regard to the positive testimonials provided on behalf of Dr Wills and the positive feedback she had received during her training. The Tribunal was satisfied that Dr Wills was a highly regarded young doctor and there were no concerns regarding her clinical skills. The Tribunal noted there was no evidence Dr Wills had ever acted in this way previously. As such, while the dishonesty was persistent and sustained over a period of time, the Tribunal was satisfied that it was linked to a period of her life during which XXX.

53. The Tribunal went on to consider the issue of remediation. It accepted that it was difficult to demonstrate remediation following a finding of dishonesty. It noted that Dr Wills' CPD included courses on ethics and ethical standards for doctors as well as a three-day course on Maintaining Professional Ethics between 6 and 8 September 2021. The Tribunal noted that Dr Wills had provided further reflections following her attendance on that three-day course. The Tribunal accepted Dr Wills' evidence that the three-day course was challenging, which forced her to face up to her dishonest actions, and to understand why she behaved the way she did. The Tribunal was satisfied that Dr Wills had undertaken considerable steps in an attempt to demonstrate the remediation of her dishonest conduct.

54. In considering remediation, the Tribunal carefully considered the risk of repetition. It noted from the evidence that Dr Wills was XXX and accepted her explanations that XXX affected her thinking and decision making which contributed to her acting dishonestly. The Tribunal acknowledged that Dr Wills had offered XXX as an explanation of her dishonesty and not as an excuse. The Tribunal also noted that Dr Wills had been going through significant financial difficulty at the time of her dishonest conduct, which was contributed to by XXX. The Tribunal also accepted that this contributed to her dishonestly using the funds from the Mess account for her personal gain.

55. The Tribunal was satisfied that Dr Wills had taken real and genuine steps to tackle XXX. XXX. The Tribunal also noted that Dr Wills was now in a much better financial situation and accepted her evidence that she would never put herself in a position where she had unfettered access to money belonging to others. The Tribunal noted that Dr Wills had repaid the money to the Mess with interest and as such there was no outstanding loss to the Mess. The Tribunal balanced this against the evidence of Dr B who stated that in the year following Dr Will's use of Mess funds for her personal gain, activities at the Mess had to be significantly

decreased which would have impacted the most junior colleagues in the Trust. The Tribunal was impressed with the extent of the remediation Dr Wills had undertaken in respect of XXX.

56. The Tribunal was satisfied that, given Dr Wills' level of insight, the evidence of her remediation and the testimonials it has seen, the risk of repetition of her dishonest conduct was low.

57. In considering whether Dr Wills' fitness to practise is currently impaired, the Tribunal balanced the level of her insight and the low risk of repetition against the public interest and the statutory overarching objective. It noted that whilst a finding of impairment does not necessarily follow upon a finding of dishonesty, it would nevertheless be an '*unusual case*' where dishonesty is not found to impair a registrant's fitness to practise. The Tribunal was also mindful of its findings that Dr Wills' actions brought the medical profession into disrepute and her actions breached a fundamental tenet of the profession and were a significant departure from the standards expected of doctors, set out in GMP.

58. Having determined that there were no clinical concerns or any evidence of a risk of harm to patients, the Tribunal was satisfied that a finding of impairment on public protection grounds was not necessary.

59. When considering the public interest, the Tribunal noted that Dr Wills' dishonesty persisted for a period of almost 12 months. The Tribunal was satisfied that a member of the public, knowing the facts of this case would be concerned to learn of a doctor acting in this way. The Tribunal, in light of its findings of serious misconduct, was satisfied that the need to promote and maintain proper professional standards and conduct for members of the profession would be undermined if a finding of impairment were not made in this case. The Tribunal was also satisfied that public confidence in the profession, the regulator and the disciplinary process would be undermined if a finding of impairment was not made.

60. Accordingly, the Tribunal determined that Dr Wills' fitness to practise is currently impaired by reason of her misconduct.

Determination on Sanction - 28/10/2022

1. Having determined that Dr Wills' fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2) (n) of the Rules on the appropriate sanction, if any, to impose.

Submissions for the GMC

2. Mr Hamlet reminded the Tribunal that the decision on whether to impose a sanction was a matter for it alone, exercising its own judgment. He reminded the Tribunal that when determining sanction, it must start with the least restrictive sanction available. He referred the Tribunal to what he considered to be the aggravating factors including that Dr Wills repeated her dishonest behaviour and she abused the trust her colleagues placed in her for her own financial

gain. However, he also stated there were a number of mitigating features including that Dr Wills admitted the entirety of the Allegation at the outset of these proceedings, had demonstrated well developed insight into her conduct, had taken steps to remediate and had repaid the Mess in full. Mr Hamlet accepted there were no concerns about Dr Wills' clinical practice. He added that given the Tribunal's assessment of XXX, together with the subsequent insight she developed, and her efforts to remedy her wrongdoing, the Tribunal would need to make up its own mind but may consider the degree of dishonest behaviour was at the lower end of the spectrum.

3. Mr Hamlet reminded the Tribunal that it should have regard to the overarching objective and referred to the paragraphs of the Sanctions Guidance ('SG') which he considered to be engaged. In considering the available sanctions Mr Hamlet submitted that taking no action was not appropriate as there were no exceptional circumstances in this case. He further submitted that conditions would not be appropriate as they were aimed at returning a doctor safely to practise. Mr Hamlet submitted that the appropriate and proportionate sanction in this case was a short period of suspension. He referred the Tribunal to paragraphs 97 (a), (e), (f) and (g) and stated that they were all relevant in this case. Mr Hamlet accepted that erasure would be a disproportionate sanction in this case as he did not consider Dr Wills' conduct to be fundamentally incompatible with her continued registration.

4. In all the circumstances, Mr Hamlet submitted that suspension was the appropriate sanction.

Submissions for Dr Wills

5. Mr Gledhill reminded the Tribunal of the aggravating and mitigating factors in this case. He invited the Tribunal to conclude the matter by taking no action in light of the exceptional circumstances and the insight demonstrated by Dr Wills as well as the remediation undertaken.

6. Mr Gledhill accepted that if the Tribunal was not with him, then a short period of suspension would be appropriate. He submitted that a lengthy period of suspension would undermine the journey of XXX by removing the support network and safeguards she now has in place. Mr Gledhill submitted that a period of suspension, no matter how short, would mark the seriousness of the departure from the standards expected of doctors. He added Dr Wills would have to declare and explain her period of suspension to future employers, possibly for the remainder of her career. Mr Gledhill stated that a period of suspension had the potential to impact Dr Wills' training programme which she was expected to complete in 2025. He stated it was not in the public interest to remove a good doctor from clinical practice for too long a period and added that a short period of suspension would be appropriate to satisfy the public interest. He reminded the Tribunal that there were no patient safety concerns and submitted that suspension for a period of one to two months would be appropriate in the circumstances.

The Tribunal's Approach

7. The Tribunal reminded itself that the decision as to the appropriate sanction to impose, if any, was a matter for it, exercising its own judgement. In reaching its decision on

sanction, the Tribunal had regard to the SG, its findings on misconduct and impairment and the submissions made by Mr Hamlet and Mr Gledhill. It bore in mind that the purpose of a sanction is not to be punitive, although it recognised that any sanction imposed may have a punitive effect.

8. It considered and had regard to the statutory overarching objective to protecting the health, safety and wellbeing of the public, maintaining public confidence in the profession, and declaring and upholding proper standards of conduct and behaviour. In making its decision, the Tribunal also had regard to the principle of proportionality, it considered Dr Wills' interests with the public interest. It first identified what it considered to be the aggravating and mitigating factors in this case.

9. Aggravating factors:

- Her dishonest conduct breached fundamental tenets of profession and brought the medical profession into disrepute;
- She breached the principles in GMP;
- She abused the trust of her colleagues and friends;
- Her dishonest actions were protracted for a period of almost 12 months;
- Her dishonesty was persistent and sustained and done for personal financial gain.

10. Mitigating factors:

- Dr Wills' misconduct was inextricably linked to XXX;
- She was experiencing significant financial difficulty as a result of XXX;
- Her insight is well developed;
- She repaid the Mess in full and included an additional amount representing interest;
- XXX;
- She has taken appropriate steps to prevent XXX;
- She has reflected well on the circumstances which gave rise to the misconduct and the misconduct itself;
- She has taken steps to remediate her misconduct including attending several ethics courses;
- The risk of repetition is low;
- She admitted the entirety of the Allegation at the outset of these proceedings;
- She has expressed regret, remorse and shame all of which have been accepted as genuine;
- Dr Wills is of previous good character with no evidence of dishonest behaviour before or since the misconduct;
- She has no previous adverse history with the GMC;
- Dr Wills is in the early stages of her career;
- There has been a lapse of time since the dishonest conduct;
- There are no concerns about Dr Wills' clinical practice;

- She has positive testimonials from her colleagues and is a highly regarded and well thought of junior doctor.

The Tribunal's Determination on Sanction

No action

11. The Tribunal considered Mr Gledhill's submission is that the Tribunal should conclude this case by taking no action. The Tribunal noted that the SG indicates that taking no action would only be appropriate in exceptional circumstances. The Tribunal did not consider there were any exceptional circumstances in this case. The Tribunal was of the view that given the seriousness of the misconduct and its findings on impairment, taking no action would not be appropriate, proportionate or in the public interest.

Conditions

12. The Tribunal next considered whether to impose conditions on Dr Wills' registration. The Tribunal had regard to the SG which provides that conditions should be appropriate, proportionate, workable and measurable.

13. The Tribunal determined that no measurable or workable conditions could be formulated in this case. Further, the Tribunal did not consider that a period of conditional registration would be sufficient to mark the seriousness of the misconduct found and would not satisfy the overarching objective, public interest or uphold public confidence in the profession.

Suspension

14. In giving weight to the aggravating and mitigating factors previously identified, the Tribunal was satisfied that action must be taken to mark the seriousness of the misconduct and to maintain public confidence in the profession. The Tribunal considered whether it should impose a period of suspension on Dr Will's registration.

15. The Tribunal had regard to paragraphs 91, 92, 93, and 97(a), (e), (f) and (g), which state:

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

92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct

that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).

93. *Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions.*

97. *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

a. *A serious breach of Good medical practice, but where the doctor’s misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.*

.....

e *No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor’s unwillingness to engage.*

f. *No evidence of repetition of similar behaviour since incident.*

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

16. It also had regard to paragraph 120 of the SG which states:

‘Considering dishonesty

120 *Good medical practice states that registered doctors must be honest and trustworthy, and must make sure that their conduct justifies their patients’ trust in them and the public’s trust in the profession.’*

17. The Tribunal was of the view that Dr Wills’ actions were dishonest, persistent, and represented a serious departure from the standards in GMP, including paragraphs 1 and 65. She admitted dishonestly taking money from the Mess account for her own personal use for the majority of her tenure as Mess President. The Tribunal also considered that her actions were a significant breach of trust of her friends and colleagues.

18. The Tribunal balanced Dr Wills' misconduct against the evidence that XXX and was satisfied that XXX was a contributory factor in her actions. The Tribunal considered that her actions in taking money from the Mess account were not premeditated but were opportunistic. The Tribunal concluded, given all the circumstances in this case, that Dr Wills' actions were not towards the upper end of the scale of dishonesty.

19. The Tribunal reminded itself that Dr Wills fully acknowledged her dishonest conduct, never seeking to minimise it and had repaid the Mess over and above the amount she had taken. She has apologised to the Mess both before and during these proceedings and expressed regret, remorse and shame for her actions. It noted that since her dishonest conduct she had taken significant steps to XXX, had undertaken significant remediation to ensure the misconduct is never repeated. The Tribunal also had regard to the fact that she now has XXX and further noted she was now in a much better place financially. The Tribunal also noted that during the course of her misconduct and subsequently, Dr Wills continued to provide good clinical care without restrictions.

20. The Tribunal was encouraged by Dr Wills' well-developed insight and was satisfied that her misconduct was unlikely to be repeated. It accepted that the public would be deprived of the services of a competent and highly regarded doctor during the period of any suspension. This was balanced against marking the seriousness of the misconduct, maintaining public confidence in the profession, the regulatory process and upholding standards.

21. The Tribunal determined that imposing a period of suspension on Dr Wills' registration was the appropriate and proportionate sanction in this case. It considered that a period of suspension would mark the seriousness of the misconduct and satisfy the overarching objective by maintaining public confidence in the profession and maintaining proper professional standards for doctors. It was also satisfied that a period of suspension would send a clear message to the public and the medical profession this type of behaviour was not acceptable.

Erasure

22. While the Tribunal considered a period of suspension would satisfy the overarching objective, it also considered the sanction of erasure. Having balanced the aggravating and mitigating factors and considered all the circumstances of this case, the Tribunal accepted the GMC's submission that Dr Wills' conduct was not fundamentally incompatible with continued registration. The Tribunal considered that to erase Dr Wills' name from the register would be wholly disproportionate and that erasure was not the only sanction which would protect the public.

Length of suspension

23. Having determined that a period of suspension was the appropriate and proportionate sanction, the Tribunal went on to determine the length of the suspension. In doing so, it had regard to paragraph 100 of SG which states:

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

- a the risk to patient safety/public protection*
- b the seriousness of the findings and any mitigating or aggravating factors (as set out in paragraphs 24–60)*
- c ensuring the doctor has adequate time to remediate.'*

24. The Tribunal had regard the need to mark the seriousness of Dr Wills' misconduct and also to declare and uphold proper standards of behaviour. It had regard to the fact there was no risk of harm to patients as well as the aggravating and mitigating factors in this case. Having taken all these matters into account the Tribunal determined to impose a three month period of suspension on Dr Wills' registration. It considered that a period of suspension of any greater length would be disproportionate in light of Dr Wills' insight, remediation and the low risk of repetition. The Tribunal considered that suspension for a period of three months would be sufficient to send a signal to Dr Wills, the wider profession and the public about conduct which is regarded as unbecoming a registered doctor.

25. The Tribunal therefore determined to suspend Dr Wills' registration for a period of three months.

Review

26. The Tribunal is not directing a review in Dr Wills' case. It is satisfied that she has extensively reflected on both her misconduct and the circumstances giving rise to it. In addition, given that there were no clinical concerns with Dr Wills the Tribunal therefore did not consider that a review was necessary in this case.

Determination on Immediate Order - 28/10/2022

1. Having determined that Dr Wills' registration should be suspended for a period of three months, the Tribunal considered, in accordance with Section 38 of the Medical Act 1983, as amended, whether to impose an immediate order to suspend her registration.

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

Submissions for the GMC

3. Mr Hamlet accepted that an immediate order was not necessary in this case.

Submissions for Dr Wills

4. Mr Gledhill reminded the Tribunal of its finding that there were no public safety risks in this case. He submitted that an immediate order is not necessary in this case.

The Tribunal's Determination

5. The Tribunal has taken account of Section 38 of the Medical Act 1983 and the relevant paragraphs of the SG in relation to when it is appropriate to impose an immediate order. Paragraph 172 of the SG states:

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

6. The Tribunal considered all of the circumstances of the case including, that Dr Wills has continued to practise without any clinical concerns. It has taken account of the positive testimonials. In the circumstances of this case, whilst the Tribunal found Dr Wills' misconduct serious, it determined that it is not necessary or otherwise in the public interest to impose an immediate order.
7. The substantive decision of suspension, as already announced, will take effect 28 days from when notice is deemed to have been served upon Dr Wills, unless she lodges an appeal in the interim.
8. The Tribunal notes that there is no interim order to revoke.
9. That concludes the case.

ANNEX A – 27/10/2022

Applications to Amend Allegation

1. On Day 1 (24 October 2022) Mr Hamlet, Counsel, on behalf of the GMC, made two applications under Rule 17(6) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') to amend:

paragraph 1(b) to read:

'b. transferred money from the Mess bank account to your personal bank account on one or more of the occasions set out in Schedule 2 and Schedule 3.'

and paragraph 3(b) to read:

'b. 1b were dishonest by reason of paragraphs 2b and 2c.'

and the date of the fourth entry in Schedule 2 to be amended from '2 November 2019' to read '2 January 2019'.

2. The application came in the course of Dr Wills was being cross examined and questions were being put to her in relation to her actions at schedule 3 being dishonest. The Tribunal highlighted to the GMC that there was an allegation of dishonesty with regard to the actions in Schedule 3 and therefore she could not be cross examined to this effect.

Submissions

3. Relating to the first amendment, Mr Hamlet submitted that the proposed amendment correctly reflected that the allegations of dishonesty had always been intended to include Schedule 3. He added that it was his understanding that both parties were proceeding on this basis and had prepared their case accordingly.

4. Relating to the second application, Mr Hamlet submitted that the revised figures, which were now shown in the additional column of Schedule 3, reflected the actual amounts which Dr Wills is alleged to have transferred to her personal account.

5. Mr Gledhill, Counsel, on Dr Wills' behalf, confirmed that he did not oppose the application. He confirmed it was always his and Dr Wills' understanding that the allegation relating to dishonesty included the matters as set out in Schedule 3. Relating to the second application, again Mr Gledhill did not oppose the application, stating it was only fair to Dr Wills that the figures in Schedule 3 properly indicate the actual amounts which Dr Wills is alleged to have transferred to her personal account.

Tribunal's Decision

6. The Tribunal considered Rule 17(6) of the Rules which states:

‘Where, at any time, it appears to the Medical Practitioners Tribunal that—

(a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended; and

(b) the amendment can be made without injustice,

it may, after hearing the parties, amend the allegation in appropriate terms.’

7. Relating to the first application, the Tribunal was concerned that despite having had a significant period of time to accurately draft the Allegation, this matter arose during the course of Dr Will’s cross examination. As the allegation of dishonesty had already been put to Dr Wills in respect of Schedules 1 and 2, the Tribunal was satisfied that an amendment to include Schedule 3 would not cause an injustice to Dr Wills. The Tribunal was also satisfied that Dr Wills would not have prepared for or presented her defence differently were the amendment to be made.

8. The Tribunal was satisfied that the amendment to the Allegation was necessary, could be made and could be done without injustice to the GMC or Dr Wills.

9. However, before granting the application, the Tribunal invited Mr Hamlet to make it expressly clear the amounts in Schedule 3 in which Dr Wills had been dishonest. It was accepted by the GMC that there were amounts of money in Schedule 3 to which Dr Wills had been legitimately entitled to and considered that it was necessary, appropriate and proportionate for Schedule 3 to be amended to as to the reflect the amounts to which it is alleged Dr Wills was not entitled.

10. On Day 2 (25 October 2022), Mr Hamlet made a further application to amend Schedule 3 to read:

Date	(£) Amount	Reference	<u>Of which amount you were not entitled to (Amended under Rule 17(6))</u>
18 January 2019	£336.30	XXX	<u>£255.27</u>
17 July 2019	£395.00	XXX	<u>£245.00</u>

11. For the reasons set out previously, the Tribunal was satisfied that the amendment was necessary, should be made and could be done without injustice to Dr Wills.

12. Accordingly, the Tribunal granted the applications to amend.

Schedule 1 – Personal transactions using the Mess bank account

Date	(£) Amount	Transaction
20 January 2019	£19.00	Contactless card purchase XXX
20 January 2019	£9.35	Contactless card purchase XXX
26 February 2019	£4.85	Contactless card purchase XXX
27 February 2019	£4.65	Contactless card purchase XXX
27 February 2019	£38.90	Debit – XXX
27 February 2019	£4.30	Contactless card purchase XXX
27 February 2019	£20.48	Contactless card purchase XXX
28 February 2019	£154.22	Debit – XXX
5 March 2019	£166.23	Debit – XXX
23 March 2019	£51.00	Debit – XXX
24 March 2019	£43.00	Debit – XXX
27 March 2019	£5.30	Contactless card purchase XXX
27 March 2019	£68.99	Debit – XXX
09 April 2019	£94.10	Debit – XXX

Schedule 2 – Transfers from Mess bank account to personal bank account

Date	(£) Amount	Reference
9 October 2018	£350.00	Mess Party
22 October 2018	£328.44	Payday Deposits
29 October 2018	£350.00	Mess
2 November January 2019 (Amended under Rule 17(6))	£150.00	Mess
17 December 2018	£350.00	Christmas Party
19 February 2019	£748.00	Mess Party
22 March 2019	£163.40	XXX
25 March 2019	£140.00	Mess Party
23 April 2019	£50.00	Mess
23 April 2019	£50.00	Mess
23 April 2019	£152.30	XXX
21 May 2019	£201.44	Mess

Schedule 3 - Transfers from Mess bank account to personal bank account

Date	(£) Amount	Reference	<u>Of which amount you were not entitled to (Amended under Rule 17(6))</u>
18 January 2019	£336.30	XXX	<u>£255.27</u>
17 July 2019	£395.00	XXX	<u>£245.00</u>