PUBLIC RECORD

Dates: 27/07/2026 – 03/08/2026

Doctor: Dr Joachim FOURIE

GMC reference number: 4236973

Primary medical qualification: MB ChB 1994 University of the Orange Free State

Type of case	Outcome on facts	Outcome on impairment
New – Deficient professional performance	Facts relevant to impairment found proved	Impaired
New – Misconduct	Facts relevant to impairment found proved	Impaired

Summary of outcome

Suspension, 12 months
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Ms Samantha Jones
Lay Tribunal Member:	Ms Amanda Webster
Registrant Tribunal Member:	Professor John Alcolado

Tribunal Clerk:	Mr Mike Murphy 27-29 July 2026 Ms Maria Khan 30 July – 03 August 2026

Attendance and Representation:

Doctor:	Not present, not represented
GMC Representative:	Mr Martin Mensah, 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.

Protecting the Public

Throughout the decision making process the tribunal has borne in mind the statutory duty as set out in s1(1) of the Medical Act 1983 (the 1983 Act) to protect the public. The tribunal has considered the relevance and impact on each of the three distinct parts of public protection 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 - 30/07/2026

Background

1. Dr Fourie qualified in 1994 from the University of the Orange Free State in South Africa. He was awarded a Fellowship of the Royal College of Radiologists in 2003. He is on the GMC Specialist Register for Radiology. Prior to the events which are the subject of the hearing Dr Fourie had most recently worked as locum Consultant Radiologist at University Hospitals Coventry and Warwickshire NHS Trust in 2015, at North Cumberland University Hospital in 2016 and at Dr Gray's Hospital in Elgin between May and August 2019. His most recent post was as a locum Consultant Radiologist at Peterborough Hospital in general radiology which he undertook until December 2019.

2. At the time of the events in the Allegation, the evidence indicates that Dr Fourie was not practising as a Consultant Radiologist and had not practised since December 2019.

3. Dr Fourie was first reported to the GMC in 2016 in relation to non-clinical concerns and for which he received a warning. In 2018, a new investigation into Dr Fourie's practise was initiated when University Hospitals Coventry and Warwickshire NHS Trust raised concerns about the perceived frequency and severity of missed diagnoses in Dr Fourie's radiology reports in the period from October 2015 – February 2016. An independent Consultant Radiologist was instructed by the GMC to review the concerns about Dr Fourie's clinical performance. The expert concluded that the overall standard of care provided fell below that reasonably expected of a Consultant Radiologist and identified some aspects of care that fell seriously below that standard. The expert subsequently provided a supplementary opinion about Dr Fourie's care of seven of the patients, having seen the relevant scans and reports. The expert concluded that Dr Fourie's care fell seriously below

the expected standard in four out of seven cases. In response to formal allegations that were put to him at the end of the GMC's investigation, Dr Fourie provided evidence of remedial steps he had taken since November 2017 and said that all his CT scans had been reviewed and audited by a supervisor, and no serious concerns had been identified. The case examiners concluded that there was no realistic prospect of demonstrating that Dr Fourie's fitness to practise was currently impaired and closed the investigation with no action in February 2018.

4. On 27 November 2019, the responsible officer for NHS Grampian made a referral to the GMC of concerns about Dr Fourie following concerns about his radiology reports. The referral said that Dr Fourie had worked as an agency locum consultant based at Dr Gray's hospital in Elgin between 20 May and 6 August 2019, when his contract was terminated as the result of increasing concerns about the quality of his radiology reports. The referral said that a review of 10% of Dr Fourie's radiology reports had revealed a high discrepancy rate *'due to poorly worded and ambiguous reports along with errors in interpretation and reporting errors'*. Subsequently all Dr Fourie's reports had been reviewed and reissued, and an exercise to assess the clinical significance of the discrepancies was on-going. As a result of that referral, the GMC Assistant Registrar made a decision under Rule 7(3) of the GMC (Fitness to Practise) Rules 2004, as amended ('the Rules') that Dr Fourie should be directed to undergo an assessment of his performance.

5. A GMC Performance Assessment was carried out on 7 and 8 of June 2021, with the report published on 3 August 2021 ('the Performance Assessment report').

6. The allegations that have led to Dr Fourie's hearing in July 2026 relate to his clinical performance and misconduct. It is alleged by the GMC that in June 2021 Dr Fourie underwent an assessment of his professional performance which found a number of areas of his performance which were unacceptable or a cause for concern. Following an investigation into his fitness to practise after the publication of the Report, Dr Fourie signed GMC Undertakings ('the Undertakings'). The Undertakings imposed a number of restrictions on Dr Fourie's practise, as set out in the List of Registered Medical Practitioners ('LRMP') on the GMC website.

7. Between December 2023 and June 2024, Dr Fourie applied for a post as a permanent Consultant Radiologist at Western Health and Social Care Trust ('the Trust') by submitting an online application form. On 2 February 2024, Dr Fourie attended a virtual meeting with Dr A (Dr A in the Allegation), Medical Director of the Trust and a member of the Trust's Human Resources Team to discuss the advertised post. On 21 June 2024, Dr Fourie attended an interview held by the Advisory Appointments Committee, which included Dr A, Dr C (Royal College of Radiologists Representative) and three others.

8. It is alleged by the GMC that Dr Fourie was dishonest in completing the application form for the post and in the answers he gave in the virtual meeting on 2 February 2024 and the interview on 21 June 2024 by not providing accurate or honest information in relation to his GMC Undertakings. Further, it is alleged that at the time of making his application to the

Trust he failed to comply with some of his Undertakings by failing to share a copy of his performance assessment report with the Responsible Officer at the Trust and failing to personally notify the Responsible Officer at the Trust of his GMC Undertakings.

9. Dr Fourie was not successful in his application for the post. On 8 August 2024, Dr A raised concerns with the GMC about Dr Fourie as he was concerned that Dr Fourie was misrepresenting his GMC restrictions.

The Outcome of applications Made During the Facts Stage

10. The Tribunal granted the application made by Mr Martin Mensah, Counsel on behalf of the GMC, pursuant to Rules 15, 40 and 31 of the Rules. The Tribunal was satisfied that notice had been properly given to Dr Fourie and that it would be appropriate to proceed with the hearing in his absence. The Tribunal's full decision on the application is included at Annex A.

The Allegation and the Doctor's Response

11. The Allegation made against Dr Fourie is as follows:

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

1. On 7 and 8 June 2021 you underwent a General Medical Council assessment of the standard of your professional performance.
   To be determined
2. Your professional performance was unacceptable in the following areas:
   a. Maintaining Professional Performance;
      To be determined
   b. Assessment of Patients' Condition;
      To be determined
   c. Clinical Management;
      To be determined
   d. Record Keeping.
      To be determined
3. Your professional performance was a cause for concern in the following areas:
   a. Safety and Quality;
      To be determined
   b. Relationship with Patients.
      To be determined
4. On 13 January 2023, following an investigation into your fitness to practise, you signed GMC undertakings which included undertakings that:

a. you personally ensure that your performance assessment report dated 3 August 2021 is shared with the Responsible Officer of any prospective place of work at the time of application;
To be determined

b. you personally ensure that the Responsible Officer of any prospective place of work is notified of your GMC undertakings at the time of application;
To be determined

c. except in life threatening emergencies, you are not to report urgent or on call CT scans of the chest, abdomen or pelvis unless directly supervised by a Clinical Supervisor.
To be determined

5. On 19 December 2023 you submitted an application ('the application') for the post of Consultant Radiologist at Western Health and Social Care Trust ('the Trust').
To be determined

6. Within the application you answered 'yes' to the question 'Have you been or are you currently subject to any fitness to practice [sic] proceedings by an appropriate licensing or regulatory body in the UK or any other country?'.
To be determined

7. Having answered 'yes' to the question set out at paragraph 6, you were asked to provide details of the nature of proceedings undertaken or contemplated, including the approximate date of proceedings, the country where proceedings were undertaken and the name and address of the licensing or regulatory body concerned.
To be determined

8. You failed to provide any of the information set out at paragraph 7.
To be determined

9. Within the application you answered 'No' to the question 'Have you been involved in or are you currently involved in any professional or personal, unresolved or pending issue that might undermine your standing or ability to do the job?'.
To be determined

10. You knew that you were subject to GMC undertakings, including the undertaking set out at paragraph 4.
To be determined

11. Your actions at paragraph 9 were dishonest by reason of paragraphs 4 and 10.
To be determined

12. Within the application, in response to the question 'If there are any gaps in your employment history provide a brief explanation' you stated that you had had a GMC examination, which had totally finished with only minimal undertakings, or words to that effect.
To be determined

13. You knew or ought to have known that the GMC undertakings you had signed would not be considered to be minimal.
To be determined

14. Your actions at paragraph 12 were dishonest by reason of paragraph 13.

To be determined

15. Within the application you gave a declaration that the statements you had made within the application were true, complete and accurate.
To be determined

16. Your actions at paragraph 15 were dishonest by reason of paragraphs 8, 9, 10, 12 and 13.
To be determined

17. You failed to personally share a copy of your GMC performance assessment report with the Responsible Officer at the Trust at the time of application.
To be determined

18. You failed to personally notify the Responsible Officer at the Trust of your GMC undertakings at the time of application.
To be determined

19. On 2 February 2024 you attended a meeting with Dr A and Ms B to discuss your application for the Consultant Radiologist post at the Trust.

To be determined

20. During the meeting you:

    a. failed to advise Dr A and Ms B that your GMC undertakings required you also to have a Workplace Reporter and an Educational Supervisor;
    To be determined

    b. advised Dr A and Ms B that you felt that the supervision arrangements would only need to be in place for a period of three or possibly six months, or words to that effect.
    To be determined

21. Your GMC undertakings:

a. required you to have a Clinical Supervisor, Educational Supervisor and a Workplace Reporter;
To be determined

b. were not in place for a defined period of three to six months.
To be determined

22. You knew, or ought to have known that your GMC undertakings:

a. required you to have a Clinical Supervisor, Educational Supervisor and a Workplace Reporter;
To be determined

b. were not in place for a defined period of three to six months.
To be determined

23. Your actions at paragraph 20 were dishonest by reason of paragraphs 21 and 22.
To be determined

24. On 21 June 2024 you attended an interview for a Consultant Radiologist post at the Trust.
To be determined

25. During the interview, you informed the interviewers that you could report all scans, including CT scans, independently, or words to that effect.
To be determined

26. You knew or ought to have known that your GMC undertakings prohibited you from reporting urgent or on-call CT scans of the chest, abdomen and pelvis unless directly supervised by a clinical supervisor, except in life threatening emergencies.
To be determined

27. Your actions at paragraph 25 were dishonest by reason of paragraphs 4(c) and 26.
To be determined

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

a. deficient professional performance, in relation to paragraphs 1-3;
To be determined

b. misconduct, in relation to paragraphs 4-27.
To be determined

The Facts to be Determined

12. Dr Fourie was not present or represented at the hearing and did not submit any written representations. In light of this, the Tribunal was required to determine the Allegation in its entirety.

Witness Evidence

13. The Tribunal received oral evidence on behalf of the GMC from the following witnesses:

- Mr E, Head of Case Review at the GMC, by video link on 27 July 2026. His witness statement was dated 18 February 2026;
- Dr A, Medical Director of the Trust, by video link on 27 July 2026. His witness statement was dated 25 September 2024, and supplemental statement dated 19 December 2024.

14. The Tribunal also received evidence on behalf of the GMC from Dr C, who sat on the Advisory Appointment Committee as a representative of the Royal College of Radiology. Dr C provided a statement dated 4 November 2024 and was not called to give oral evidence.

15. Dr Fourie did not provide a witness statement or any other evidence.

Documentary Evidence

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

- Performance Assessment report, dated 3 August 2021;
- Signed Schedule of Undertakings, dated 13 January 2023;
- The application form for the post of Consultant Radiologist at the Trust, dated 19 December 2023;
- Notes of two interviews held with Dr Fourie by the Trust;
- Email from Dr Fourie to GMC enclosing Work Details Form and comments, dated 18 August 2024;
- Various emails between Dr Fourie and the GMC;
- Dr Fourie's response to the concerns raised.

The Tribunal's Approach

17. In reaching its decision on the facts, the Tribunal will apply the civil standard of proof. This means that the Tribunal must decide whether, on the balance of probabilities, the GMC is able to prove it is more likely than not that the matters occurred as alleged. The burden of proof rests with the GMC and it is for the GMC to prove the case that it is presenting against the doctor. There is no burden on the doctor to prove or disprove anything.

18. The Tribunal will approach fact finding by firstly identifying agreed facts and evidence. To reach a decision on the disputed facts, the Tribunal will assess the evidence in the round. It will consider what conclusions and inferences can be drawn from the documentary evidence. The Tribunal will then consider the available oral evidence and subject that evidence to critical scrutiny against the agreed facts and documentary evidence to consider a witness' reliability and credibility. The Tribunal should not decide reliability and credibility based on the demeanour of a witness alone.

19. In its deliberations, the Tribunal had regard to the *'Guidance for Tribunals Section three: MPT Hearings'*. It had particular regard to *'Part A: stage 1 – facts'* which states:

> *Reliability*
>
> *11. An MPT must make a rounded assessment of a witness' reliability, rather than approaching their reliability in respect of each allegation in isolation from the others.*
>
> *12. When assessing the reliability of witness evidence, the MPT should identify the consistent and inconsistent features of the evidence, including where inconsistencies are present any reasons given for them, and consider the impact those features have on the overall effect of the evidence.*
>
> *Credibility*
>
> *13. Credibility, however, can be divisible. This means it is open to the MPT not to rule out the whole of a witness' evidence based on lack of credibility.*
>
> *14. A witness' credibility should be tested by reference to any objective fact(s) that can be proven independently of their evidence, in particular by reference to documents available in the case.*
>
> *15. The MPT can consider how a witness presents during the hearing to assess their credibility. But a witness' credibility should not be assessed exclusively on their demeanour when giving evidence. The confident delivery, or otherwise, of a witnesses' evidence is not a reliable guide to whether they are telling the truth. Other information that may be relevant to the MPT's assessment of a witness' credibility includes conflicts in evidence with agreed facts, documentary evidence or another witness, denials of the allegations and reasons why they could not be true, or admissions of lying (on oath or otherwise) on a previous occasion'*

20. In addition, given the Allegation alleges dishonesty, the Tribunal had regard to the Supreme Court judgment in the case of *Ivey v Genting Casinos (UK) Limited [2017] UKSC 67*, in which Lord Hughes set out the correct test for dishonesty, which is as follows:

'When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'

The Tribunal's Analysis of the Evidence and Findings

21. The Tribunal has considered each paragraph of the Allegation separately and has evaluated the evidence to make its findings on the facts.

22. The Tribunal heard from Dr A who they considered to be a credible and reliable witness as his evidence as to the events was consistent with his written statements and the contemporaneous documents.

23. The Tribunal heard from Mr E who they considered to be credible and reliable witness as his evidence as to the events

24. The Tribunal considered whether to admit the evidence of Dr C as hearsay evidence as his statement was tendered into evidence but the Tribunal did not hear his oral evidence. His evidence concerned the interview on 21 June 2024 with Dr Fourie. The Tribunal was not made aware of any reasons as to why the witness was not in attendance, except that he was unavailable. The Tribunal acknowledged that his evidence was not the sole or decisive basis for the factual findings in respect of the interview on 21 June 2024, and paragraphs 24 to 26 of the Allegation and that his evidence was corroborated by Dr A and contemporaneous notes of the meeting. The Tribunal considered that it would be fair to admit the evidence which could be scrutinised and tested by comparing it to the evidence of Dr A, who the Tribunal had heard from, and the contemporaneous notes of the meeting. In admitting the statement, the Tribunal determined that it would adopt a careful balancing exercise and consider the impact and weight to attach to the evidence particularly if it was key evidence for a particular allegation.

Paragraph 1 of the Allegation

25. The Tribunal considered if Dr Fourie underwent a General Medical Council assessment of the standard of his professional performance on 7 and 8 June 2021. In doing so it had regard to the Professional Assessment report dated 3 August 2021. The assessment states that it was conducted on 7 and 8 June 2021.

26. As such, the Tribunal found paragraph 1 of the Allegation proved.

Paragraphs 2(a), 2(b), 2(c) and 2(d) of the Allegation

27. The Tribunal had regard to the report and noted that Dr Fourie's performance had been assessed under seven categories ('Maintaining Professional Performance', 'Assessment of Patients' Condition', 'Clinical Management', 'Operative/Technical Skills', 'Record Keeping', 'Safety and Quality', 'Relationships with Patients' and 'Working with Colleagues') with reference to the professional standards described in the GMC publication 'Good Medical Practice'. The assessment had involved three interviews with Dr Fourie, two of which were assessed, a medical record review of 50 consecutive records from NHS Grampian including 10 US (ultrasound) records, 10 plain X-ray records and 30 CT (computerised tomography) scans, a case based discussion with Dr Fourie, a 2-hour knowledge test, an OSCE (Objective Structured Clinical Examination) and a rapid reporting module.

28. The Tribunal considered that the conclusions of the Professional Assessment report found that Dr Fourie's professional performance was unacceptable in the areas of 'Maintaining Professional Performance', 'Assessment of Patients' Condition', 'Clinical Management' and 'Record Keeping'. The Tribunal noted that the report defined "unacceptable" as meaning that it indicated that there was "evidence of *repeated or persistent* failure to comply with the professional standards appropriate to the work being done by the doctor, particularly where this places patients or members of the public in jeopardy (i.e. deficient professional performance)".

29. As such, the Tribunal found paragraphs 2(a), 2(b), 2(c) and 2(d) of the Allegation proved.

Paragraphs 3(a) and 3(b) of the Allegation

30. The Tribunal considered if Dr Fourie's professional performance was found to be a cause for concern in the areas of 'Safety and Quality' and 'Relationship with Patients'. It had regard to the conclusions of the Professional Assessment report which stated that Dr Fourie's performance was a cause for concern in those two areas. The Tribunal noted that the meaning of "cause for concern" in the report meant that there was *"evidence that the doctor's performance may not be acceptable but there is not sufficient evidence to suggest deficient professional performance."*

31. As such, the Tribunal found paragraphs 3(a) and 3(b) of the Allegation proved.

Paragraphs 4(a), 4(b) and 4(c) of the Allegation

32. The Tribunal considered if Dr Fourie signed the GMC Undertakings on 13 January 2023. It had regard to a letter emailed by the GMC to Dr Fourie, on 17 July 2024, which included a Schedule of Undertakings signed by Dr Fourie on 13 January 2023.

33. The Tribunal also had regard to a document entitled *'Dr Fourie's Undertakings, effective from 13/01/2023'* which showed at paragraph 13(b)(i) the requirement for Dr Fourie:

> *'To personally ensure my performance assessment report 03 August 2021 is shared with:*
>
> *….*
> *b. the responsible officer of the following organisations:*
> *i. my place(s) of work, and any prospective place of work (at the time of application)….'*

34. The Undertakings showed at paragraph 16(b)(i) the requirement for Dr Fourie:

> *'To personally ensure the following persons are notified of the Undertakings listed at 1 to 17:*
>
> *…..*
> *b. the responsible officer of the following organisations:*
> *i. my place(s) of work , and any prospective place of work (at the time of application)….'*

35. The Undertakings also showed at paragraph 12(a) the requirement for Dr Fourie:

> *'Except in life-threatening emergencies, not to report urgent or on call CT scans of the chest, abdomen and pelvis unless directly supervised by a clinical supervisor.'*

36. As such, the Tribunal found paragraphs 4(a), 4(b) and 4(c) of the Allegation proved.

Paragraph 5 of the Allegation

37. The Tribunal considered if Dr Fourie submitted an application for the post of Consultant Radiologist at the Trust on 19 December 2023. It had regard to a *'healthdaq'* application form, generated on 27 December 2023, which showed the candidate name as *'Joachim Johannes Fourie'*, the job title as *'Consultant Radiologist Altnagelvin Area Hospital)'* and the employer name as *'Western Health And Social Care Trust'*. It also had regard to the supplemental witness statement of Dr A, dated 19 December 2024, in which he confirmed that an application was submitted to the Trust on 19 December 20223.

38. As such, the Tribunal found paragraph 5 of the Allegation proved.

Paragraph 6 of the Allegation

39. The Tribunal considered if, within the application form Dr Fourie answered *'yes',* to the question *'Have you been or are you currently subject to any fitness to practice* [sic] *proceedings by an appropriate licensing or regulatory body in the UK or any other country?'*. It

had regard to the application which asked, *'Have you been or are you currently subject to any fitness to practice proceedings by an appropriate licensing or regulatory body in the UK or any other country?'* and the answer *'Yes'* that was inputted below this question. The Tribunal noted that this was the only answer provided by Dr Fourie in response to this question.

40. As such, the Tribunal found paragraph 6 of the Allegation proved.

Paragraph 7 of the Allegation

41. The Tribunal considered if Dr Fourie was then asked on the application form to provide details of the nature of proceedings undertaken or contemplated, including the approximate date of proceedings, the country where proceedings were undertaken and the name and address of the licensing or regulatory body concerned.

42. The Tribunal had regard to the application which stated *'If yes, please provide details of the nature of proceedings undertaken or contemplated, including the approximate date of proceedings, the country where proceedings were undertaken and the name and address of the licensing or regulatory body concerned. If you answered No, please record 'N/A' in this box'*.

43. As such, the Tribunal found paragraph 7 of the Allegation proved.

Paragraph 8 of the Allegation

44. The Tribunal considered if Dr Fourie failed to provide any information in response to the question on the application form detailed at paragraph 7 of the Allegation. It noted that the application allowed text to be entered beneath the question and that no information appeared on the form. In addition, the question had offered the applicant the option to input *'N/A'* if the answer to the preceding question was no. However, Dr Fourie had not inserted 'N/A' beneath the question.

45. The Tribunal considered that the online form was designed such that something should have been entered in answer to the question, either N/A if the answer was no, or provide details of the fitness to practise proceedings which Dr Fourie had been or was currently subject to. The Tribunal found that Dr Fourie was required to input information on the form in response to the question. Given that Dr Fourie had previously been subject to fitness to practice investigations by the GMC and he was subject to restrictions on his practice by virtue of the GMC Undertakings at the time of submitting his application, the Tribunal found that he was required to provide information about these fitness to practice matters. The Tribunal found that the answer to the question was silent and it took that as proof that Dr Fourie had failed to provide the information requested.

46. As such, the Tribunal found paragraph 8 of the Allegation proved.

Paragraph 9 of the Allegation

47. The Tribunal considered if, within the application, Dr Fourie answered *'No'* to the question *'Have you been involved in or are you currently involved in any professional or personal, unresolved or pending issue that might undermine your standing or ability to do the job?'*.

48. The Tribunal had regard to the application which asked, *'Have you been involved or are you currently involved in any professional or personal, unresolved or pending issue that might undermine your standing or ability to do the job?*' and the answer '*No'* that was inputted below this question.

49. As such, the Tribunal found paragraph 9 of the Allegation proved.

Paragraph 10 of the Allegation

50. The Tribunal considered if Dr Fourie knew he was subject to GMC Undertakings, including those referred to in paragraph 4 of the Allegation. It had regard to the signed Schedule of Undertakings, dated 13 January 2023, along with email correspondence between Dr Fourie and the GMC in November 2023 in which Dr Fourie seeks clarification as to the meaning of his Undertakings. Based on this information, the Tribunal was satisfied that Dr Fourie knew he was subject to the GMC Undertakings.

51. As such, the Tribunal found paragraph 10 of the Allegation proved.

Paragraph 11 of the Allegation

52. The Tribunal considered if Dr Fourie's actions at paragraph 9 of the Allegation were dishonest by reason of paragraphs 4 and 10 of the Allegation. In doing so it had regard to the test set out in *Ivey* and tried to ascertain subjectively the actual state of Dr Fourie's knowledge and belief at the time he answered no to the question *'Have you been involved in or are you currently involved in any professional or personal, unresolved or pending issue that might undermine your standing or ability to do the job?'* when he was subject to GMC Undertakings and knew that he was.

53. As the Tribunal had not received any evidence from Dr Fourie on this point, it was unable to ascertain his reasoning for completing the answer on the form as he did.

54. The Tribunal considered whether the question in the application form should have been answered positively by Dr Fourie, in other words whether according to the standards of ordinary decent people he should have written 'Yes' instead of 'No'. The Tribunal considered that the question posed in this part of the application form was a wider and more searching question than the preceding question of whether Dr Fourie had been involved or was currently involved in any fitness to practise proceedings. The Tribunal found that as against the standards of ordinary decent people, Dr Fourie should have answered the question in the affirmative. By the time of submitting the application form, Dr Fourie had been out of

practise for two years. He was also subject to GMC Undertakings, one of which significantly restricted his practice by virtue of him not being able to report on CT scans of the chest, abdomen and pelvis unless directly supervised or in life-threatening circumstances. The Tribunal considered that these were professional matters in which he was currently involved that meant his ability to do the job was undermined. There was therefore no other way to answer the question on the application form except by answering 'yes'.

55. The Tribunal bore in mind that Dr Fourie had signed the Undertakings, on 13 January 2023, and had sought clarification from the GMC about them but still answered *'no'* to the question. The Tribunal took the view that, by the objective standards of ordinary decent people, Dr Fourie's actions would be considered to have been dishonest.

56. As such, the Tribunal found paragraph 11 of the Allegation proved.

Paragraph 12 of the Allegation

57. The Tribunal considered if Dr Fourie, within the application form, in response to the question *'If there are any gaps in your employment history provide a brief explanation'* stated that he had had a GMC examination, which had totally finished with only minimal Undertakings.

58. The Tribunal had regard to the application which asked, *'If there are any gaps in your employment history provide a brief explanation'* and Dr Fourie's response in which he stated *'GMC examination stretching over the last 3 years, this examination is totally finished now with only minimal Undertakings. Due to this references will be difficult as I am sure you will appreciate but I will supply as many as possible. I would also like to discuss how we can resolve this to give you the information you need.'*

59. As such, the Tribunal found paragraph 12 of the Allegation proved.

Paragraph 13 of the Allegation

60. The Tribunal considered if Dr Fourie knew or ought to have known that the GMC Undertakings he had signed would not be considered to be minimal.

61. The Tribunal considered Dr Fourie's response to the GMC's investigation, wherein he explains that he had been in contact with his GMC case manager on multiple occasions to clarify his understanding of the Undertakings. As a result of those exchanges, the GMC case manager counter-signed two documents drafted by Dr Fourie which set out Dr Fourie's understanding of some paragraphs of the Undertakings. The Tribunal saw the exchanges between Dr Fourie and the GMC case manager in 2023 to 2024 and the two counter-signed documents dated 5 and 8 January 2024. The Tribunal heard evidence from Mr E that it was not normal practice for a GMC case manager to counter-sign documents as the GMC case manager had done. The Tribunal noted that the two documents provided misleading and incorrect information about the meaning of some paragraphs of the Undertakings. For

example, the document dated 8 January 2024 stated '*As soon as Dr Fourie has gotten approval from his Responsible Officer, who is currently Dr D, Dr Fourie is free to do on-call work that might be needed in the department. There does not need to be any additional meeting in relation to on call work.*' The Tribunal understood Dr Fourie's response to mean that his understanding of the Undertakings was based on the (mis)information provided to him by the GMC's case manager and as such he had not misled anyone.

62. The Tribunal considered Dr Fourie's response carefully but found that it was satisfied that Dr Fourie was aware of the impact of the Undertakings. He had signed them, he had access to the Glossary that explained the meaning of the Undertakings. Further, in this application form Fourie stated *'…references will be difficult as I am sure you will appreciate but I will supply as many as possible. I would like to discuss how we can resolve this to give you the information you need'.* The Tribunal also noted references in the documents to Dr Fourie explaining that he had made a number of job applications. The Tribunal considered that there was no evidence that the GMC case manager had explained that the Undertakings were *'minimal'* or that paragraph 12 of the Undertakings no longer applied to Dr Fourie. Further that the letters counter-signed by the GMC case manager had only been signed after Dr Fourie had submitted his application form. As such, the Tribunal were satisfied that Dr Fourie knew that they would not have been considered to be minimal.

63. Furthermore, the Tribunal considered that a fair and reasonable-minded person would consider that paragraph 12 of the Undertakings, which restricted Dr Fourie's ability to report on CT scans independently, was significant because it concerned a central part of a Consultant Radiologist's practice.

64. The Tribunal also had regard to the supplemental witness statement of Dr A, dated 19 December 2024, in which he stated:

> *'In answer to the question, 'If there are any gaps in your employment history provide a brief explanation' Dr Fourie answered, 'GMC examination stretching over the last 3 years, this examination is totally finished now with only minimal Undertakings. Due to this, references will be difficult as I am sure you will appreciate but I will supply as many as possible. I would like to discuss how we can resolve this to give you the information you need.' In respect of this answer, my view is that Dr Fourie had significant Undertakings which applied to his work at the time... I would disagree with the statement that he has 'minimal Undertakings'. What Dr Fourie recorded in this answer has been typical of all of the interactions I have had with him; he does not appear to have appropriate understanding of the full implications of the GMC Undertakings which applied to him at the time…'*

65. Based on the evidence received, the Tribunal was satisfied that the Undertakings would not have been considered minimal by anybody who was required to have knowledge of them. The Tribunal found that Dr Fourie ought to have known that the Undertakings as a whole, but particularly paragraph 12, would not be considered to be a minimal undertaking.

66. As such, the Tribunal found paragraph 13 of the Allegation proved.

Paragraph 14 of the Allegation

67. The Tribunal considered if Dr Fourie's actions at paragraph 12 of the Allegation were dishonest by reason of paragraph 13. As it has determined that Dr Fourie was aware of the GMC Undertakings, the Tribunal took the view that he was dishonest in filling out the application form to state that the *'GMC examination'* was *'totally finished now with only minimal undertakings'*.

68. In line with the case of *Ivey* the Tribunal tried to consider subjectively the actual state of Dr Fourie's knowledge and belief at the time. Although the Tribunal did not hear from Dr Fourie, the Tribunal did have regard to the response he had provided which was that he was relying on the approval of the GMC case manager regarding the Undertakings. However, the Tribunal considered that this did not provide direct or specific evidence as to why he had completed the application form as he did and so it could not ascertain his subjective knowledge and belief.

69. The Tribunal considered his actions to have been dishonest applying the objective standards of ordinary decent people. As determined above, it took the view that Dr Fourie ought to have known that the Undertakings were not minimal in nature and that the GMC matters had not finished as he was still subject to Undertakings which included the requirement not to report urgent or on call CT scans of the chest, abdomen and pelvis unless directly supervised by a clinical supervisor, except in life-threatening emergencies. This requirement applied to a fundamental aspect of the job for which Dr Fourie was applying and the Tribunal could not see how this could be viewed as a minimal restriction on his practice. According to the standards of ordinary decent people, his response on the form was dishonest.

70. As such, the Tribunal found paragraph 14 of the Allegation proved.

Paragraph 15 of the Allegation

71. The Tribunal considered if, within the application form, Dr Fourie gave a declaration that the statements he had made within it were true, complete and accurate. It had regard to the application form and noted the declaration *'I declare that all the foregoing statements are true, complete and accurate'* was completed as *'I declare'*.

72. As such, the Tribunal found paragraph 15 of the Allegation proved.

Paragraph 16 of the Allegation

73. The Tribunal considered if Dr Fourie's actions at paragraph 15 were dishonest by reason of paragraphs 8, 9, 10, 12 and 13. It considered Dr Fourie's actions in failing to provide accurate information on the application form, when he knew he was subject to Undertakings

and that these were not minimal restrictions, would be seen as dishonest by the standards of ordinary decent people as the purpose of the application was to apply for a serious and important role that concerned members of the public. The Tribunal considered it to be serious for Dr Fourie to provide inaccurate information on the application form when he knew he was subject to GMC Undertakings. Accordingly, it was satisfied that this amounted to dishonesty.

74. As such, the Tribunal found paragraph 16 of the Allegation proved.

Paragraph 17 of the Allegation

75. The Tribunal considered if Dr Fourie failed to personally share a copy of his GMC performance assessment report with the Responsible Officer at the Trust at the time of submitting the application. It had regard to the supplemental witness statement of Dr A, dated 19 December 2024, in which he stated:

> *'The GMC have asked me whether Dr Fourie provided me or the Trust with a copy of his Performance Assessment report (dated 3 August 2021) and, if so, when. I can confirm that I have never seen any Performance Assessment report regarding Dr Fourie, nor was this ever offered by him.'*

76. The Tribunal considered Dr A evidence in this respect to be credible and reliable. As such, the Tribunal found paragraph 17 of the Allegation proved.

Paragraph 18 of the Allegation

77. The Tribunal considered if Dr Fourie failed to personally notify the Responsible Officer at the Trust of his GMC Undertakings at the time of submitting his application. It had regard to the supplemental witness statement of Dr A, dated 19 December 2024, in which he stated:

> *'…Dr Fourie stated that he was or had been subject to fitness to practice proceedings, however, gave no details of proceedings of any kind and as can be seen above, effectively ignored the second question. My knowledge of Dr Fourie's GMC restrictions and proceedings came from the GMC website. I am involved in the vast majority of consultant interviews in the Trust as part of my role as Medical Director. My practice is to routinely review information on the GMC website to check for specialist registration and if there are any recorded warnings or Undertakings. I would have been further prompted to check the website given the answer Dr Fourie provided…which indicated GMC involvement.'*

78. In addition, Dr A confirmed this in his oral evidence that the Trust were not made aware of Dr Fourie's GMC Undertakings by Dr Fourie. The Tribunal considered the evidence of Dr A to be credible and reliable in this respect. The Tribunal had regard to the fact that Dr A had repeatedly stated that his understanding of Dr Fourie's GMC Undertakings only came from the information he had ascertained from the GMC website.

79. As such, the Tribunal found paragraph 18 of the Allegation proved.

Paragraph 19 of the Allegation

80. The Tribunal considered if Dr Fourie attended a meeting with Dr A and Ms B, on 2 February 2024, to discuss his application for the Consultant Radiologist post at the Trust. It had regard to the witness statement of Dr A, dated 25 September 2024, in which he stated:

> *'On 2 February 2024, I attended a virtual meeting with Dr Fourie and a representative of the Trust's Human Resources Team. The purpose of this meeting was to converse with Dr Fourie regarding the advertised upcoming Trust recruitment of a permanent Consultant Radiologist. For context, employment legislation in Northern Ireland is exceptionally tight. If any applicant meets the shortlisting criteria for an advertised post, the applicant will automatically proceed to an interview, even if the applicant is unlikely to be appointable. Having reviewed Dr Fourie's GMC registration status, I noted that he was subject to an order of voluntary Undertakings, the constitution of which meaning that I did not deem he would be appointable to the advertised role of a Consultant Radiologist.'*

81. As such, the Tribunal found paragraph 19 of the Allegation proved.

Paragraph 20(a) of the Allegation

82. The Tribunal considered if during this meeting Dr Fourie failed to advise Dr A and Ms B that his GMC Undertakings required him to have a Workplace Reporter and an Educational Supervisor. The Tribunal considered the Undertakings and was satisfied that there was a duty on Dr Fourie to advise that he required a Workplace Reporter and an Educational Supervisor as well as a clinical supervisor and that they were three different roles to be filled.

83. During the course of the meeting on 2 February 2023, Dr A had recorded in his contemporaneous note that:

> *'Dr Fourie reviewed his interpretation of advice he said was provided by [the GMC case manager] GMC. He referred to one clinical supervisor and not the additional roles outlined in GMC restriction advice'*

84. The Tribunal accepted Dr A's evidence that Dr Fourie had not advised him that he was required to also have a Workplace Reporter and an Educational Supervisor in place.

85. Based on the evidence received, the Tribunal was satisfied it was clear from the Undertakings that Dr Fourie was required to have a Workplace Reporter and an Educational Supervisor but failed to advise of this during the meeting.

86. As such, the Tribunal found paragraph 20(a) of the Allegation proved.

Paragraph 20(b) of the Allegation

87. The Tribunal considered if during this meeting Dr Fourie advised Dr A and Ms B that he felt the supervision arrangements would only need to be in place for a period of three or possibly six months. In doing so, it had regard to the contemporaneous note made by Dr A during Dr Fourie's interview on 2 February 2023 in which he had recorded:

> *'He felt he would only need supervision by one consultant and for a period of 3 possibly 6 months.'*

88. The Tribunal accepted Dr A's evidence as credible and reliable and as such, the Tribunal found paragraph 20(b) of the Allegation proved.

Paragraph 21(a) of the Allegation

89. The Tribunal considered if Dr Fourie's GMC Undertakings required him to have a Clinical Supervisor, Educational Supervisor and a Workplace Reporter.

90. It noted that these are set out in the signed Schedule of Undertakings, dated 13 January 2023. Paragraph 4 of the Undertakings states the requirement for Dr Fourie *'To have a workplace reporter appointed by my responsible officer (or their nominated deputy)'*, paragraph 6 of the Undertakings states the requirement for him *'To have an educational supervisor appointed by my responsible officer (or their nominated deputy)'* and paragraph 11 of the Undertakings states the requirement *'To be supervised in all my posts by a clinical supervisor, as defined in the Glossary for Undertakings and conditions. My clinical supervisor must be appointed by my responsible officer (or their nominated deputy)'*.

91. As such, the Tribunal found paragraph 21(a) of the Allegation proved.

Paragraph 21(b) of the Allegation

92. The Tribunal considered whether Dr Fourie's GMC Undertakings were in place for a defined period of three to six months. The Tribunal noted the signed Schedule of Undertakings, dated 13 January 2023, and noted that there is nothing within these to suggest they were time limited to three to six months.

93. As such, the Tribunal found paragraph 21(b) of the Allegation proved.

Paragraph 22(a) of the Allegation

94. The Tribunal considered if Dr Fourie knew or ought to have known that his GMC Undertakings required him to have a Clinical Supervisor, Educational Supervisor and a

Workplace Reporter. As Dr Fourie signed the Schedule of Undertakings, on 13 January 2023, the Tribunal was satisfied that he should have been aware of these requirements.

95. In considering the position of Dr Fourie, the Tribunal had regard to the letter counter-signed by the GMC case manager, dated 5 January 2024, which stated '*The post of the clinical supervisor, educational supervisor and the workplace reporter can be filled by the same person'.* The Tribunal considered out of fairness to Dr Fourie that this appeared to have caused some confusion but it was the Tribunal's view that this statement did not alter the meaning of the Undertakings: the three roles were still required to monitor Dr Fourie's practise but they could be filled by the same person. The Tribunal therefore considered that Dr Fourie ought to have known his Undertakings required him to have all three roles in place.

96. As such, the Tribunal found paragraph 22(a) of the Allegation proved.

Paragraph 22(b) of the Allegation

97. The Tribunal considered if Dr Fourie knew or ought to have known that his GMC Undertakings were not in place for a defined period of three to six months. It noted that the Undertakings themselves did not define a time period. It also had regard to the letter signed by the GMC case manager, on 5 January 2024, which stated:

> *'Based upon the feedback of the clinical supervisor every 3-6 months, the GMC will decide to change / remove the Undertakings…*
>
> *The meetings between Dr. Fourie and the clinical supervisor does not need to be weekly meetings but only sufficient so that the clinical supervisor does feel comfortable after every 3-6 month period to give a letter of feedback to the GMC.'*

98. The Tribunal noted that the use of the word "every" was significant as it demonstrated that there would be regular intervals when the GMC would consider changing or removing the Undertakings, not after a set three to six month period.

99. In addition, the Tribunal had regard to an email from the GMC case manager to Dr Fourie, on 23 November 2023, in which he stated:

> *'I'm afraid that there's no set time period for clinical supervision. The more time you work and gather positive feedback from your clinical supervisor and workplace reporter, the better the chance you will have in getting some of your Undertakings varied or relaxed.'*

100. The Tribunal also had regard to a telephone from a call between the GMC case manager and Dr Fourie, on 28 November 2023, in which it was noted:

> *'Dr Fourie wanted to clarify how often the supervision reports were expected and who requested them. I confirmed that they would be requested once every 6 months by*

myself. I also advised that Dr Fourie would need to agree with his current RO how often they meet to discuss the doctor's PDP requirements. Dr Fourie also asked how long it would take to be able to vary or relax some of his Undertakings. I advised him that it would take at least a year of good positive feedback before we could consider relaxing any Undertakings.'

101. Based on the evidence received, the Tribunal was satisfied that Dr Fourie had been repeatedly informed that the Undertakings were not time limited to a period of three to six months and this was information he knew or should have known.

102. As such, the Tribunal found paragraph 22(b) of the Allegation proved.

Paragraph 23 of the Allegation

103. The Tribunal considered if Dr Fourie's actions at paragraph 20 were dishonest by reason of paragraphs 21 and 22. In line with the test set out in *Ivey* the Tribunal considered subjectively if Dr Fourie held the genuine belief that he was not required to have a Clinical Supervisor, Educational Supervisor and a Workplace Reporter along with the belief that he felt that the Undertakings would only need to be in place for a period of three to six months.

104. In respect of paragraphs 20(a), 21(a) and 22(a), the Tribunal applied the *Ivey* dishonesty test and considered that there may have been some confusion about the meaning of the Undertakings but, as the Tribunal had not heard from Dr Fourie, it was difficult to ascertain his subjective knowledge and belief. The Tribunal considered that Dr Fourie's failure to explain in the interview that he also needed to have a Workplace Reporter and Educational Supervisor was dishonest according to the standards of ordinary decent people. It was the Tribunal's view that Dr Fourie was attempting to minimise the level of restrictions in place on his practise.

105. In respect of paragraphs 20(b), 21(b) and 22(b), the Tribunal took the view that in the meeting, on 2 February 2024, Dr Fourie *was* stating that *he felt* he would only need supervision for a period of three possibly six months. Dr Fourie may have held a genuine belief that he felt his Undertakings would only need to be in place for that period. He was not representing that the Undertakings were time limited to a period of three to six months. The Tribunal took the view that the GMC failed to discharge the burden in order for it to find that, on the balance of probabilities, Dr Fourie was dishonest in his representations about the length of time that his GMC Undertakings would be in place. His actions were not dishonest according to the standards of ordinary decent people. Accordingly, the Tribunal was satisfied that he was not being dishonest in respect of the duration of his Undertakings.

106. As such, the Tribunal found paragraph 23 of the Allegation proved insofar as it related to paragraphs 20(a), 21(a) and 22(a).

107. The Tribunal found paragraph 23 of the Allegation not proved insofar as it related to paragraphs 20(b), 21(b) and 22(b).

Paragraph 24 of the Allegation

108. The Tribunal considered if Dr Fourie attended an interview for a Consultant Radiologist post at the Trust on 21 June 2024. It had regard to the witness statement of Dr A, dated 25 September 2024, in which he stated, *'I attach a copy of the contemporaneous notes I made during Dr Fourie's interview on 21 June 2024'*. The Tribunal had regard to this note and was satisfied that this evidenced Dr Fourie's attendance at the interview.

109. As such, the Tribunal found paragraph 24 of the Allegation proved.

Paragraph 25 of the Allegation

110. The Tribunal considered if during the interview, Dr Fourie informed the interviewers that he could report all scans, including CT scans, independently or words to that effect. It had regard to the witness statement of Dr A, dated 25 September 2024, in which he stated:

> *'The interview was opened, as is standard for every consultant interview, by questioning Dr Fourie with regards to his training and employment history and his suitability and appointability to the role. Dr C led this part of the interview; as the Royal College Representative it was Dr C's primary role to ensure the candidate was appointable to the position. I understand Dr C had searched the GMC register for Dr Fourie's details as part of his due diligence ahead of the interview and, accordingly, brought up the matter of Dr Fourie's GMC Undertakings. He asked Dr Fourie what restrictions he was working under by virtue of his Undertakings. Dr Fourie advised the panel, words to the effect that, he "can report all scans including CT scans independently", he was "only required to meet with a clinical supervisor once every one to two weeks" and his "supervisor did not have to be resident in the same building [as he was practising]."…*
>
> *… Dr Fourie did not appear to understand the nature of his GMC Undertakings, what they required of him and the scope by which they restricted his clinical practice. Dr Fourie was adamant that he could report on scans independently and that he didn't need a supervisor in the same room as him whilst he worked. We (the AAC interview panel) explained that this was not our collective understanding of Dr Fourie's Undertakings. I explained that, from reading of his Undertakings, their effect would be very different to how he had portrayed them. I cannot recall what Dr Fourie replied, but I recall that he did not back down or change his position in any way, he appeared resolute in what he said.'*

111. Dr A also confirmed in his oral evidence that Dr Fourie informed the interviewers that he could report all scans independently. In addition, in Dr A's email to the GMC, dated 28 June 2024, he stated:

'When questioned on the nature of the restrictions by both myself and the Royal College of Radiology representative [Dr C] he stated:

1. He can report all scans including CT scans independently.
2. He was only required to meet with a clinical supervisor once every one to two weeks.
3. Supervisor did not have to be resident in the same building.

Both Dr C and I would not agree with these statements based on the online GMC restrictions.'

112. The Tribunal accepted Dr A's evidence in this respect. The Tribunal noted that this email was sent only seven days after the interview and therefore accepted that this was a reliable contemporaneous note of matters discussed in the meeting of 21 June 2024.

113. In addition, Dr C made a contemporaneous note during Dr Fourie's interview on 21 June 2024 as follows:

*'When asked specifically about undertaking 12A " **a** Except in life-threatening emergencies, **i** not to report urgent or on-call CT scans of the chest, abdomen and pelvis unless directly supervised by a clinical supervisor." And how this would enable him to deliver acute on call autonomously he says he only needs to discuss one or two of those cases every week with the person who is the clinical supervisor and that person does not need to supervise every case and does not need to be in the same building at all or available contemporaneously..'*

114. The Tribunal accepted the evidence of Dr C, and noted that it was consistent with Dr A's evidence. The Tribunal deemed that it was unnecessary to attach less weight to Dr C's evidence in light of the fact that it was consistent with Dr A's evidence. Further, it appeared to the Tribunal that Dr Fourie was not contesting that he had said those words in the meeting, rather his defence was based on the reasonable belief that his statement about reporting CT scans independently was accurate.

115. The Tribunal received no evidence to the contrary that Dr Fourie informed the interviewers that he could report all scans independently and considered it to be unlikely that two of the interviewers were mistaken.

116. As such, the Tribunal found paragraph 25 of the Allegation proved.

<u>Paragraph 26 of the Allegation</u>

117. The Tribunal considered if Dr Fourie knew or ought to have known that his GMC Undertakings prohibited him from reporting urgent or on-call CT scans of the chest, abdomen and pelvis unless directly supervised by a clinical supervisor, except in life threatening

emergencies. It had regard to the letter counter-signed by the GMC case manager on 8 January 2024, which stated:

> *'Based upon the Glossary for Undertakings and conditions in his case.*
> *As soon as Dr Fourie has gotten approval from his Responsible Officer, who is currently Dr D, Dr Fourie is free to do on-call work that might be needed in the department. There does not need to be any additional meetings done in relation to on call work.'*

118. The Tribunal considered the letter to be an attempt to reassure Dr Fourie and to clarify the Undertakings but acknowledged that this may have caused confusion to Dr Fourie. However, the Tribunal were mindful that the letter was not the only source of information regarding the Undertakings. Dr Fourie had signed the Undertakings on 13 January 2023 and was given the Glossary which explained its terms. Although the counter-signed letter caused confusion, the Tribunal considered that it cannot reasonably have been seen to have altered paragraph 12 of the Undertakings and Dr Fourie should have known about this requirement. Furthermore, by the time of the interview on 21 June 2024, Dr Fourie had already had a discussion with Dr A, in the meeting on 2 February 2024, where they had discussed the restrictive nature of the Undertakings and Dr A had explained that "*they would render it impossible for Dr Fourie to function as an independent reporter or words to that effect*." The Tribunal were of the view that taking everything together that even if Dr Fourie had been confused by the counter-signed letter of 8 January 2024, by the time of the interview on 21 June 2024, it was not reasonable for him to rely on it and he ought to have known that he was prohibited from reporting urgent or on-call CT scans of the chest, abdomen and pelvis unless directly supervised by a clinical supervisor, except in life threatening emergencies.

119. As such, the Tribunal found paragraph 26 of the Allegation proved.

Paragraph 27 of the Allegation

120. The Tribunal considered if Dr Fourie's actions at paragraph 25 were dishonest by reason of paragraphs 4(c) and 26. In line with the test laid out in *Ivey*, the Tribunal considered subjectively if Dr Fourie had the genuinely held belief that he could report urgent or on-call CT scans of the chest, abdomen and pelvis independently. For the reasons outlined above, it was satisfied that Dr Fourie ought to have been aware of the requirement as it is set out at paragraph 12 of the Undertakings that except in life-threatening emergencies, he is not to report urgent or on-call CT scans of the chest, abdomen and pelvis unless directly supervised by a clinical supervisor.

121. However, the Tribunal carefully considered whether his belief was genuinely held and considered Dr Fourie's response in which he stated that he *'confirmed how the Undertakings should be understood'* with the GMC. It noted that Dr Fourie did not have the benefit of representation in understanding his Undertakings and he appeared to rely heavily on the letter signed by the GMC case manager on 8 January 2024 to clarify the Undertakings. The

Tribunal considered that it was a genuinely held belief that he could report CT scans independently.

122. The Tribunal then went on to consider whether Dr Fourie's actions were dishonest according to the objective standards of ordinary decent people. The Tribunal considered the evidence demonstrated that Dr Fourie had difficulty in finding a job, that he would have difficulty in securing references, that he already had a copy of the Undertakings and the Glossary and that he had had a discussion with Dr A in the meeting on 2 February 2024 about the Undertakings and again at the interview on 21 June 24. The Tribunal was satisfied that the evidence shows Dr Fourie ought to have known that, except in life threatening emergencies, he was not to report urgent or on call CT scans of the chest, abdomen or pelvis unless directly supervised by a Clinical Supervisor. The Tribunal were satisfied that Dr Fourie's actions were dishonest.

123. As such, the Tribunal found paragraph 27 of the Allegation proved.

The Tribunal's Overall Determination on the Facts

124. The Tribunal has determined the facts as follows:

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

1. On 7 and 8 June 2021 you underwent a General Medical Council assessment of the standard of your professional performance.
Determined and found proved

2. Your professional performance was unacceptable in the following areas:

    a. Maintaining Professional Performance;
    Determined and found proved

    b. Assessment of Patients' Condition;
    Determined and found proved

    c. Clinical Management;
    Determined and found proved

    d. Record Keeping.
    Determined and found proved

3. Your professional performance was a cause for concern in the following areas:

    a. Safety and Quality;
    Determined and found proved

b. Relationship with Patients.
Determined and found proved

4. On 13 January 2023, following an investigation into your fitness to practise, you signed GMC undertakings which included undertakings that:

a. you personally ensure that your performance assessment report dated 3 August 2021 is shared with the Responsible Officer of any prospective place of work at the time of application;
Determined and found proved

b. you personally ensure that the Responsible Officer of any prospective place of work is notified of your GMC undertakings at the time of application;
Determined and found proved

c. except in life threatening emergencies, you are not to report urgent or on call CT scans of the chest, abdomen or pelvis unless directly supervised by a Clinical Supervisor.
Determined and found proved

5. On 19 December 2023 you submitted an application ('the application') for the post of Consultant Radiologist at Western Health and Social Care Trust ('the Trust').
Determined and found proved

6. Within the application you answered 'yes' to the question 'Have you been or are you currently subject to any fitness to practice [sic] proceedings by an appropriate licensing or regulatory body in the UK or any other country?'.
Determined and found proved

7. Having answered 'yes' to the question set out at paragraph 6, you were asked to provide details of the nature of proceedings undertaken or contemplated, including the approximate date of proceedings, the country where proceedings were undertaken and the name and address of the licensing or regulatory body concerned.
Determined and found proved

8. You failed to provide any of the information set out at paragraph 7.
Determined and found proved

9. Within the application you answered 'No' to the question 'Have you been involved in or are you currently involved in any professional or personal, unresolved or pending issue that might undermine your standing or ability to do the job?'.
Determined and found proved

10. You knew that you were subject to GMC undertakings, including the undertaking set out at paragraph 4.
Determined and found proved

11. Your actions at paragraph 9 were dishonest by reason of paragraphs 4 and 10.
Determined and found proved

12. Within the application, in response to the question 'If there are any gaps in your employment history provide a brief explanation' you stated that you had had a GMC examination, which had totally finished with only minimal undertakings, or words to that effect.
Determined and found proved

13. You knew or ought to have known that the GMC undertakings you had signed would not be considered to be minimal.
Determined and found proved

14. Your actions at paragraph 12 were dishonest by reason of paragraph 13.
Determined and found proved

15. Within the application you gave a declaration that the statements you had made within the application were true, complete and accurate.
Determined and found proved

16. Your actions at paragraph 15 were dishonest by reason of paragraphs 8, 9, 10, 12 and 13.
Determined and found proved

17. You failed to personally share a copy of your GMC performance assessment report with the Responsible Officer at the Trust at the time of application.
Determined and found proved

18. You failed to personally notify the Responsible Officer at the Trust of your GMC undertakings at the time of application.
Determined and found proved

19. On 2 February 2024 you attended a meeting with Dr A and Ms B to discuss your application for the Consultant Radiologist post at the Trust.
Determined and found proved

20. During the meeting you:

    a. failed to advise Dr A and Ms B that your GMC undertakings required you also to have a Workplace Reporter and an Educational Supervisor;
    Determined and found proved

    b. advised Dr A and Ms B that you felt that the supervision arrangements would only need to be in place for a period of three or possibly six

months, or words to that effect.
Determined and found proved

21. Your GMC undertakings:

    a. required you to have a Clinical Supervisor, Educational Supervisor and a Workplace Reporter;
    Determined and found proved

    b. were not in place for a defined period of three to six months.
    Determined and found proved

22. You knew, or ought to have known that your GMC undertakings:

    a. required you to have a Clinical Supervisor, Educational Supervisor and a Workplace Reporter;
    Determined and found proved

    b. were not in place for a defined period of three to six months.
    Determined and found proved

23. Your actions at paragraph 20 were dishonest by reason of paragraphs 21 and 22.
Determined and found proved in relation to 20(a), 21(a) and 22(a)
Not proved in relation to paragraphs 20(b), 21(b) and 22(b)

24. On 21 June 2024 you attended an interview for a Consultant Radiologist post at the Trust.
Determined and found proved

25. During the interview, you informed the interviewers that you could report all scans, including CT scans, independently, or words to that effect.
Determined and found proved

26. You knew or ought to have known that your GMC undertakings prohibited you from reporting urgent or on-call CT scans of the chest, abdomen and pelvis unless directly supervised by a clinical supervisor, except in life threatening emergencies.
Determined and found proved

27. Your actions at paragraph 25 were dishonest by reason of paragraphs 4(c) and 26.
Determined and found proved

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

a. deficient professional performance, in relation to paragraphs 1-3;
To be determined

b. misconduct, in relation to paragraphs 4-27.
To be determined

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125. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out, Dr Fourie's fitness to practise is impaired by reason of deficient professional performance and/or misconduct.

The Evidence

126. No evidence was adduced for this stage of the hearing. The Tribunal has reviewed its findings of fact.

Submissions

127. On behalf of the GMC, Mr Mensah, Counsel, submitted that Dr Fourie's fitness to practice is currently impaired by reason of his deficient professional performance and misconduct.

128. Mr Mensah told the Tribunal that in this case, allegations had been raised and found proven about Dr Fourie's probity. He submitted that dishonesty carried a presumption of impairment and there was nothing to go against the presumption in this case.

129. Mr Mensah referred the Tribunal to the case of *Abrahaem v General Medical Council* [2008] EWHC 183 (Admin) which provides that there is a persuasive burden upon a doctor to demonstrate that they have fully acknowledged why their past conduct was deficient, and through insight, application, education, supervision or other achievement, they have sufficiently addressed the past impairment. Mr Mensah submitted that the persuasive burden had not been met in this case because of issues of dishonesty.

130. Mr Mensah submitted that even in the absence of the doctor or representative, there could have been evidence provided, such as a certificate relating to a training in probity and ethics course, or testimonials. In the absence of such evidence, it was difficult to demonstrate that Dr Fourie's fitness to practise is not currently impaired.

131. Mr Mensah submitted that the allegations relating to dishonesty were likely to fall at the higher end of the spectrum of seriousness. There were two separate instances of dishonesty in this case: completing the application form; and then during the interview, and the dishonesty had occurred within the doctor's professional role. Mr Mensah submitted that

had Dr Fourie been successful in achieving the role for which he applied, that he would have attained a significant benefit, as it would have been a consultant post.

132. Mr Mensah submitted that the instances of dishonesty were persistent and repeated and served to undermine the system designed to protect the public. Dr Fourie had signed formal GMC Undertakings and misrepresented the requirements of those Undertakings.

133. In relation to current and ongoing risk, Mr Mensah submitted that there was no information before the Tribunal regarding any personal or workplace context, and no formal comment from Dr Fourie in response to the allegations. Further, there was no evidence in relation to any remediation or if, and how, Dr Fourie was keeping his skills up to date. Mr Mensah told the Tribunal that these factors increased the level of risk to all three parts of public protection, and the GMC contended that this level of risk was high.

134. In relation to Dr Fourie's deficient professional performance, Mr Mensah told the Tribunal that the submissions were the same, insofar as there was no evidence to demonstrate any remediation. He submitted that Dr Fourie had been given the opportunity to provide up-to-date reports and to engage and liaise with his GMC case manager. There was no further input or information to put before the Tribunal and again, the GMC contended that Dr Fourie's fitness to practise is currently impaired by reason of deficient professional performance.

135. Mr Mensah concluded by inviting the Tribunal to make a finding of current impairment on both grounds and to move on to consider the appropriate sanction.

The Relevant Legal Principles

136. There is no burden or standard of proof at this stage of the proceedings and the decision of impairment is a matter for the Tribunal's judgment alone. The Tribunal will only make a finding of impairment where there is a legal basis for doing so and where a decision is reached that the doctor poses a current and ongoing risk to one or more of the three parts of public protection which is likely to require restrictive action in response. The three parts of public protection are to protect, promote and maintain the health, safety and well-being of the public; to promote and maintain public confidence in the profession; and to promote and maintain proper professional standards and conduct for members of the profession.

137. The Tribunal had regard to the versions of *Good medical practice* ('GMP') that were in use at the time of the index events; GMP 2013 for paragraphs 1-18 of the Allegation, and GMP 2024 for paragraphs 19-27.

138. The Tribunal had regard to the definitions for deficient professional performance and misconduct in the '*Guidance for MPTS Tribunals Section three: MPT Hearings,* in particular *'Part B: stage 2 - Impairment > Step 2'.* In relation to deficient professional performance, it states:

'This is about professional performance. It could consist of acts and/or omissions and includes failing to act appropriately or being unable to provide care to the standard expected.

To amount to deficient professional performance, an assessment of a fair sample of a doctor's work will show that the same clinical act or omission occurs more than once or there is more than one clinical act or omission. Taken together the departures from the professional standards are unacceptable and mean the doctor's performance falls seriously below the standard(s) expected, as set out in Good medical practice.'

In relation to misconduct, the Guidance states:

'This is about behaviour. It could consist of acts and/or omissions arising in or outside of a doctor's working life and includes failing to act appropriately or demonstrating behaviour that falls short of what can reasonably be expected.

To amount to misconduct, the behaviour will be a serious departure from the professional standards, as set out in Good medical practice. This includes single clinical acts or omissions that are serious, or a limited number of clinical acts or omissions that taken together are serious.'

139. With respect to misconduct, the Tribunal also bore in mind the case of *Roylance v General Medical Council (No.2)* [2000] 1 A.C. 311, which provides:

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [medical] *practitioner in the particular circumstances.'*

140. The Tribunal was reminded that, in other contexts, there has been reference to misconduct being conduct which would be regarded as deplorable by fellow practitioners.

141. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin. In particular, the Tribunal considered whether its findings of fact showed that Dr Fourie's fitness to practise is impaired in the sense that 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.'

142. In approaching the decision, the Tribunal will consider the five-stage process to be adopted as set out in Steps 2a-2e of *'Part B: stage 2 – Impairment: Step 2* and the need to first consider whether the facts as found proved in respect of paragraphs 1-3 of the Allegation amount to deficient professional performance and in respect of paragraphs 4-27 of the Allegations whether the facts found proved amount to misconduct. Then, it is for the Tribunal to consider whether the finding of deficient professional performance and/or misconduct poses a current and ongoing risk to public protection requiring restrictive action in response and therefore could lead to a finding of impairment. To assess whether the Doctor does pose any current and ongoing risk to public protection, the Tribunal will consider:

- where on the spectrum of seriousness the Allegation lies, based on the facts found proved,
- the impact of any relevant context known about Dr Fourie and
- how Dr Fourie has responded to the Allegation.

143. As the paragraphs of the Allegation fall under more than one ground for impairment, an assessment of current and ongoing risk to public protection should be made in respect of each of them.

The Tribunal's Determination on Impairment

Deficient professional performance

144. At the previous stage, the Tribunal found Dr Fourie's professional performance to have been "unacceptable" in four areas, as concluded in his Performance Assessment report. The Tribunal considered that this met the definition of deficient professional performance as set out in the Guidance. The Tribunal referred to paragraph 28 of its determination at the facts stage that the meaning of "unacceptable" was defined in the Performance Assessment report as:

"Unacceptable indicates that there is evidence of repeated or persistent failure to comply with the professional standards appropriate to the work being done by the doctor, particularly where this places patients or members of the public in jeopardy (i.e. deficient professional performance).

This grade should be entered if: you have evidence that the criteria for an acceptable level of performance are regularly not being met or negative criteria are being met."

145. In respect of the two areas where the Tribunal had found that there was a "cause of concern", as concluded in the Performance Assessment report, the Tribunal considered the definition for the meaning of the finding of "cause for concern" in the Performance Assessment report which stated:

> *"Cause for concern means that there is evidence that the doctor's performance may not be acceptable but there is not sufficient evidence to suggest deficient professional performance."*

146. The Tribunal also had regard to GMP 2013, especially paragraphs 7, 14, 15(a) and (c), and 19:

> *7. You must be competent in all aspects of your work, including management, research and teaching.*
> *….*
>
> *14. You must recognise and work within the limits of your competence.*
>
> *15. You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:*
>
> *a. adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient*
>
> *…*
> *c. refer a patient to another practitioner when this serves the patient's needs.*
> *….*
> *19. Documents you make (including clinical records) to formally record your work must be clear, accurate and legible. You should make records at the same time as the events you are recording or as soon as possible afterwards.*

Is there a legal basis for considering impairment?

147. Taking into account the definition of "unacceptable" in the Performance Assessment report and the MPTS Guidance, along with the breaches of GMP paragraphs 7, 14, 15(a) and (c) and 19, the Tribunal considered there was a legal basis for considering impairment in relation to the areas, 'Maintaining Professional Performance', Assessment of Patients' Condition', Clinical Management' and 'Record Keeping', as set out at paragraph 2 of the Allegation.

148. The Tribunal found that there was not a legal basis for the matters found proved in paragraph 3 of the Allegation. The conclusion reached by the assessors that the categories of 'Safety and Quality' and 'Relationships with Patients' were a "cause for concern" meant that there was not sufficient evidence to suggest deficient professional performance. The

Tribunal had received no other evidence to explain why it should go behind the conclusions of the Performance Assessment report or why matters alleged at paragraph 3 of the Allegation would constitute deficient professional performance.

Where on the spectrum of seriousness does the allegation lie?

149. The Tribunal proceeded to the next stage of its assessment on the basis of the matters found proved in respect of paragraphs 1 and 2 of the Allegation only.

150. The Tribunal took into account that the Performance Assessment report had found multiple failures in Dr Fourie's practice and these failures spanned a number of areas of practice of a Consultant Radiologist especially CT scanning of the chest, abdomen and pelvis, keeping knowledge up to date and management of clinical incidents and that his record keeping did not reach an acceptable standard. The Tribunal also noted that there had been clinical failings in respect of diagnosis, concerns that patients may have been overtreated, and the Performance Assessment report had concluded that Dr Fourie's deficiencies posed risks to patient safety. This was of particular concern to the Tribunal.

151. Taking the nature of the failings into consideration, the Tribunal concluded that these lay at the higher end of the spectrum of seriousness as a starting point.

152. The Tribunal then considered whether there were any features of this case that increased the level of seriousness. It considered the persistent and repeated nature of the clinical failings and Dr Fourie's previous fitness to practise history in respect of clinical failings. It also took into account that Dr Fourie had been asked to undertake the Performance Assessment after previous employers had raised concerns about his performance.

153. The Tribunal could find no features that reduced the seriousness of the Allegation, and categorised the deficient professional performance as falling at the high end of spectrum of seriousness.

What is the impact of any relevant context known about Dr Fourie and/or their working environment?

154. The Tribunal considered that there was little evidence of any relevant personal or workplace context that mitigated the deficiencies identified. The Tribunal was mindful of the fact that the Performance Assessment had been undertaken when Dr Fourie had been out of practise for two years which may have contributed to some of the failings identified, though it had no evidence as to whether the absence from work had affected his performance. In any event, in the Tribunal's view the breadth, seriousness and repeated nature of the deficiencies across multiple areas meant they could not relate solely to a prolonged absence from clinical practice. The assessment was conducted in a controlled environment with standardised cases without the pressures of a clinical workplace, maximising its objective standards and the opportunity for Dr Fourie to perform to the best of his ability.

155. The Tribunal had no evidence regarding Dr Fourie's personal circumstances or previous working environments and, therefore, no basis on which to conclude that these could have contributed to the deficient performance. The Tribunal noted that the findings of the Performance Assessment report that "*Dr Fourie has not kept his knowledge of radiology up to date. He had not undertaken any training in radiology during the lengthy period that he was out of work and did not appreciate a need for retraining prior to resuming practice in radiology.*"

156. The Tribunal was of the view that whilst Dr Fourie had previously worked as a locum consultant with the inherent challenges of working in unfamiliar systems, there was no evidence that this had materially impacted upon the deficiencies identified.

How has Dr Fourie responded to the allegations?

157. The Tribunal considered Dr Fourie's limited engagement with this process. While the Tribunal had regard to Dr Fourie's initial response to the GMC investigation, the Tribunal was not otherwise provided with any written statement from Dr Fourie nor any other evidence demonstrating insights into the deficiencies identified, or any meaningful remediation. Whilst Dr Fourie had initially agreed to comply with the Undertakings, he had not returned to clinical practice and had provided no evidence of training or remediation, for example, CPD, supervised practise, reflective work, development plans, supervisor reports or an observership. The Tribunal therefore had no evidence that Dr Fourie had maintained or updated his knowledge and skills, or taken steps to address the deficiencies identified.

158. The Tribunal considered that Dr Fourie had been afforded the opportunity to remediate through the Undertakings but there was no evidence that this opportunity had been used. In fairness to Dr Fourie, the Tribunal appreciated that the Undertakings were highly restrictive in nature which may have affected Dr Fourie's ability to attain a job at the level of a Consultant Radiologist. In those circumstances, the Tribunal concluded that the absence of evidence of insight, remediation or ongoing professional development significantly increased the risk of repetition and the consequent risk to public protection.

Tribunal's decision as to whether Dr Fourie poses any current and ongoing risk to public protection which may require restrictive action in response and its finding on impairment

159. The Tribunal considered each limb of public protection.

160. It took into account its conclusions in the above steps to inform its overall conclusion of the risk to public protection and considered the nature of the failings identified in the standardised Performance Assessment report, the opportunities afforded to Dr Fourie via the Undertakings, the absence of any insight and remediation, and absence of any details of his personal circumstances.

161. In the Tribunal's view, Dr Fourie's failings constituted a significant departure from the standards required of doctors, as set out in GMP 2013. A risk to patient safety had already

been identified through the Performance Assessment report, and the Tribunal concluded that a member of the public would be concerned by Dr Fourie's clinical deficiencies that he had not sought to resolve. The Tribunal was also satisfied that the need to uphold proper standards for the profession could only be served by a finding of current impairment.

162. The Tribunal has therefore determined that Dr Fourie's fitness to practise is impaired by reason of his deficient professional performance as there is a current and ongoing high level of risk to public protection.

Misconduct

163. The Tribunal considered its findings of fact and the paragraphs of the Allegation found proved. As the Tribunal had found paragraph 23 of the Allegation insofar as it related to paragraphs 20(b), 21(b) and 22(b) not proved, it found that there could be no finding of impairment in relation to that part of paragraph 23 of the Allegation.

Is there a legal basis for considering impairment?

164. The Tribunal took into account paragraphs 66 and 71(b) of GMP 2013:

> *66. You must always be honest about your experience, qualifications and current role.*
>
> *71. You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.*
>
> > *a. …*
> >
> > *b. You must not deliberately leave out relevant information.*

165. The Tribunal also had regard to paragraphs 81, 88, 89 and 98 of GMP 2024:

> *81 You must make sure that your conduct justifies patients' trust in you and the public's trust in your profession.*
> *….*
>
> *88 You must be honest and trustworthy, and maintain patient confidentiality in all your professional written, verbal and digital communications.*
>
> *89 You must make sure any information you communicate as a medical professional is accurate, not false or misleading. This means:*
>
> *a you must take reasonable steps to check the information is accurate*
> *b you must not deliberately leave out relevant information*
> *c you must not minimise or trivialise risks of harm*

d you must not present opinion as established fact.
....
98 To maintain patient safety, you must cooperate with formal inquiries, patient safety investigations, and complaints procedures. You must provide all relevant information and be open and honest.

166. The Tribunal considered that Dr Fourie had not been honest and transparent about the restrictions placed on his practise by the Undertakings such that it found five instances of dishonesty. The Tribunal had also found that Dr Fourie had breached his Undertakings by not providing the Undertakings and Performance Assessment Report to the Trust at the time of submitting his application, as required. This requirement was to maintain patient safety, as any future employer would need to be aware of the detail of the Undertakings.

167. The Tribunal took into account that Dr Fourie was subject to the Undertakings which required him to disclose both the Undertakings and the Performance Assessment report to any prospective employer when applying for employment. Whilst he contacted the GMC case manager to seek clarification regarding aspects of those Undertakings, and some of that communication had caused confusion, the Tribunal had found that he should nevertheless have understood the meaning of his Undertakings. Although he made some attempts to refer to the Undertakings during the recruitment process, the Tribunal found that he sought to minimise their significance rather than provide full and transparent disclosures. It found that he deliberately omitted relevant information from his application and failed to provide documentation that would have enabled his potential employer to understand the restrictions on his practise and implement appropriate safeguards. He deliberately omitted relevant information about his Undertakings from the meeting on 2 February 2024 and the interview on 21 June 2024. It was the Tribunal's view that he did so for personal gain in order to attain the post of Consultant Radiologist with the Trust.

168. The Tribunal noted that Dr Fourie was afforded more than one opportunity to be open and honest during discussions during the recruitment process. Despite those opportunities, he failed to make honest and transparent disclosure about the restrictions imposed on his practice by the Undertakings.

169. The Tribunal considered that honesty and integrity are fundamental tenets of the medical profession and that employers must be able to rely upon doctors providing complete and accurate information particularly where patient safety is concerned. By withholding information about the Performance Assessment and Undertakings and misrepresenting the detail of the Undertakings, Dr Fourie prevented a potential employer from properly assessing the level of supervision training and support that may have been required, and from understanding the level of risk Dr Fourie posed to patient safety and how to mitigate that risk. The Tribunal concluded this represented a serious departure from the standards expected of a registered medical practitioner.

170. The Tribunal was satisfied that Dr Fourie's conduct breached expected standards and amounted to misconduct that was serious. Therefore, there was a legal basis for considering impairment.

Where on the spectrum of seriousness does the allegation lie?

171. The Tribunal took into account that the misconduct involved both dishonesty and a breach of the Undertakings that had been imposed for the purpose of protecting patients and maintaining public confidence in the profession. Rather than being an isolated incident, the misconduct was repeated over a period of time. Despite receiving an explanation of the Undertakings and having several opportunities to clarify his understanding of the Undertakings, Dr Fourie continued to minimise the extent of the restrictions on his practise and failed to provide full and accurate information to his prospective employer.

172. The Tribunal considered that this demonstrated a reckless disregard for professional standards and the purpose of the Undertakings and undermined the regulatory safeguards designed to protect patients. The misconduct also represented a significant departure from the fundamental professional duties of honesty, integrity and openness as set out in GMP. The Tribunal further considered that Dr Fourie's actions were motivated, at least in part, by a desire to secure employment placing his own interests above the wider public interest in patient safety and maintaining confidence in both the medical profession and its regulator. Taken together these features placed the misconduct at the high end of the spectrum of seriousness.

173. The Tribunal accepted that Dr Fourie had been labouring under some confusion created by the GMC case manager in relation to the Undertakings. However, it had found at the facts stage that he knew, or ought to have known, the meaning of the Undertakings and declared them. The Undertakings were there for public safety reasons and Dr Fourie had been deliberately dishonest to a potential employer.

174. The Tribunal considered that the public would think underplaying undertakings and not abiding by them was a serious matter. The Tribunal also took into account that Dr Fourie had had time to reflect after the pre-interview meeting in February 2024 but still was not open and transparent about the Undertakings in his interview in June 2024. The Tribunal concluded that these findings strike at the heart of a regulatory protection system to protect members of the public. Therefore, the misconduct remained high on the spectrum of seriousness.

What is the impact of any relevant context known about Dr Fourie and/or their working environment?

175. The Tribunal accepted that Dr Fourie had not been represented at the time he was seeking clarification of his Undertakings and he had tried to gain clarity about the Undertakings and was given confusing advice when the GMC countersigned Dr Fourie's

letters regarding his Undertakings. Other than that, the Tribunal had no evidence of any other relevant context, either from a personal or working environment perspective.

How has Dr Fourie responded to the allegations?

176. The Tribunal had no evidence of insight or remediation regarding the dishonesty. The Tribunal considered that in the absence of this information the risk of repetition was high and, therefore, increased the risk to public protection. The Tribunal was of the view that even though Dr Fourie had not been in clinical practice for a significant period of time, he could have engaged in targeted remediation to address the probity concerns. He had not engaged with the pre-hearing meetings scheduled for this substantive hearing and had disengaged altogether after that.

Tribunal's decision as to whether Dr Fourie poses any current and ongoing risk to public protection which may require restrictive action in response and its finding on impairment

177. Taking into account the seriousness of the misconduct and the high risk of repetition, the Tribunal concluded there was a high current and ongoing risk to all three limbs of public protection.

178. The Tribunal has therefore determined that Dr Fourie's fitness to practise is impaired by reason of his misconduct.

179. In summary, the Tribunal has found Dr Fourie's fitness to practise is currently impaired by both his deficient professional performance and misconduct.

Determination on Sanction - 03/08/2026

180. Having determined that Dr Fourie's fitness to practise is impaired by reason of deficient professional performance and misconduct, the Tribunal now has to decide, in accordance with Rule 17(2)(n) of the Rules, what action, if any, it should take with regard to Dr Fourie's registration.

The Evidence

181. The Tribunal has reviewed its findings at the facts and impairment stages and taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

Submissions

182. On behalf of the GMC, Mr Mensah, Counsel, submitted that at this stage there was no burden or standard proof, and that the main reason for imposing sanctions was to protect the public.

183. Mr Mensah reminded the Tribunal that any sanction needed to be proportionate but no more than necessary to protect the public. Sanctions were not imposed to punish or discipline doctors but they could have a punitive effect.

184. Mr Mensah referred the Tribunal to its impairment determination and its findings in relation to the seriousness of the deficient professional performance and misconduct and the high current and ongoing risk to all three limbs of public protection. Mr Mensah submitted that the appropriate sanction banding allied with these findings in *Part C of the Guidance for MPT hearings* was a suspension of nine months to erasure.

185. Mr Mensah submitted that in this case the proportionate regulatory response to protect the public and the public interest was that Dr Fourie be erased from the medical register and an immediate order imposed.

186. Mr Mensah drew the Tribunal's attention to paragraph 45 of the Guidance, which states that suspension may be proportionate in cases where the level of current and ongoing risk to public protection is such that it cannot be safely managed with conditions and suspension is necessary to stop the doctor from working and putting patients at risk while they gain insight into any deficiencies and remediate. Mr Mensha submitted there was no evidence of any attempts to develop insight or remediate.

187. Mr Mensah also referred the Tribunal to paragraph 57 of the Guidance, which details when erasure will be the only proportionate response. It provides that

> *'Erasure may be the proportionate response where:*
> *a. conditions are not appropriate, measurable and/or workable and suspension is not sufficient to protect the public*
> *b. where the doctor's behaviour or performance is such that it caused serious harm, and the risk of harm recurring cannot be mitigated sufficiently through putting conditions or suspension in place*
> *c. the doctor has shown a persistent lack of insight into the seriousness of the allegation about their behaviour or performance and the potential or actual consequences, and/or*
> *d. the seriousness of the facts found proven and or impact of any relevant context that increased the current and ongoing risk of public protection mean the effect of the doctor continuing to hold registration is such that it will undermine public confidence in the profession.'*

188. Mr Mensah submitted that Dr Fourie's behaviour and deficient performance were very serious given the multiple instances of dishonesty which were related to the Undertakings which were designed to ensure patient safety. There had been no insight

offered by Dr Fourie and Dr Fourie had not engaged with the GMC such that the Tribunal could find that there was a persistent lack of insight.

189. Mr Mensah concluded, therefore, that the GMC's position was that erasure was the only suitable proportionate regulatory response in this case.

Legal Advice

190. The Tribunal's decision as to the appropriate sanction to impose is a matter for its independent judgement. There is no burden or standard of proof on either the GMC or the registrant.

191. In making its decision on sanction, the Tribunal has reviewed its decision on facts and impairment and has considered the level of current and ongoing risk the doctor poses to public protection.

192. The Tribunal will start with the least restrictive option and have regard to the fact that any sanction decision it makes needs to be proportionate, transparent and fair. It will be guided by the sanctions guidance set out in *Part C of section three of the Guidance for MPT hearings* and in particular, the bandings for clinical concerns and dishonesty as set out in the table at paragraph 62.

The Tribunal's Determination on Sanction

193. The Tribunal took into account that it had already determined at the impairment stage that all three limbs of public protection were engaged, and that the level of risk to public protection was high, in respect of Dr Fourie's deficient professional performance and his misconduct.

194. The Tribunal had regard to the table at paragraph 62 of the Guidance, which provides guidance on the appropriate sanction bandings for particular categories of case. It identified that the appropriate banding for the clinical concerns that posed a higher level of risk to public protection was suspension of six months to erasure, and dishonesty that posed a higher level of risk to public protection carried a sanction of nine months' suspension to erasure.

195. The Tribunal determined that although the sanctions banding identified a sanction of suspension or erasure as being appropriate, it would still consider all of the sanctions available to it starting with the least restrictive option.

No action

196. In reaching its decision as to the appropriate sanction, if any, to impose on Dr Fourie's registration, the Tribunal first considered whether to conclude the case by taking no action. The Tribunal had regard to its findings of Dr Fourie's wide-ranging and serious failings in his

professional performance, and his repeated and consistent failures in respect of his misconduct which included five instances of dishonesty, the breach of the Undertakings and its finding that Dr Fourie currently posed a high level of risk to public protection. The Tribunal also noted that it had not heard from Dr Fourie and so were not aware of his level of insight, or remediation.

197. Given the seriousness of its findings and that there were no exceptional circumstances to justify taking no action, the Tribunal determined that taking no action would be inappropriate and not achieve the public protection required.

Conditions

198. The Tribunal went on to consider whether a period of conditional registration would be sufficient to protect the public and the wider public interest. It took into account that Dr Fourie had been given the opportunity to comply with the Undertakings. However, Dr Fourie had found it difficult to obtain a job because of the Undertakings in place and he had breached his Undertakings, as well as minimised and misrepresented them in his application for a post. Dr Fourie had also not demonstrated any insight or explained to the Tribunal how conditions could be workable. The Tribunal found that workable conditions could not be formulated in light of its findings about Dr Fourie's failure to comply with his Undertakings previously. As Dr Fourie had not demonstrated any insight or shown a willingness to remediate, the Tribunal could not be satisfied that he would comply with them.

199. Further, the Tribunal found that conditions would not sufficiently address the findings and concerns identified in its impairment decision, particularly those relating to honesty. Conditions would also not address the totality of the Tribunal's decision in respect of the ongoing and current risk to public protection. In addition, conditions restricting the doctor's practise would, in the circumstances of this case, be tantamount to a period of suspension as there was some evidence that Dr Fourie had found it difficult to secure a role when his practice had been so heavily restricted by the Undertakings, which prevented him from reporting on CT scans of the chest, abdomen and pelvis unless directly supervised or in life-threatening circumstances. The Tribunal acknowledged that it could impose different conditions on his practice to that set out in the Undertakings but it considered that these would not be workable or proportionate.

200. As Dr Fourie did not attend the hearing or provide any evidence of a willingness to remediate or comply with conditions, the Tribunal concluded that a conditions of practice order would be neither appropriate nor sufficient to protect the public or satisfy the wider public interest.

Suspension/Erasure

201. The Tribunal considered whether a period of suspension would be the appropriate and proportionate sanction in this case or whether erasure from the Medical Register was

necessary to address the clinical concerns and dishonesty. The Tribunal took into account paragraphs 45 and 57 of the Guidance:

> *45. Suspension may be proportionate in cases where some, or all, of the following factors are present:*
>
> *a. conditions are not appropriate, measurable and/or workable*
>
> *b. the level of current and ongoing risk to public protection is such that it cannot be safely managed with conditions and suspension is necessary to stop the doctor from working and putting patients at risk while they gain insight into any deficiencies and remediate, or undergo medical treatment, and/or*
>
> *c. the level of current and ongoing risk to public protection is such that, although patient safety is not an issue, suspension is needed to maintain public confidence in the profession and/or maintain professional standards.*
>
> *57. Erasure may be the proportionate response where:*
>
> *a. conditions are not appropriate, measurable and/or workable and suspension is not sufficient to protect the public*
>
> *b. the doctor's behaviour or performance is such that it caused serious harm, and the risk of harm recurring cannot be mitigated sufficiently through putting conditions or suspension in place the doctor has shown a persistent lack of insight into the seriousness of the allegation about their behaviour or performance and the potential or actual consequences, and/or*
>
> *c. the seriousness of the facts found proven and/or impact of any relevant context that increased the current and ongoing risk to public protection mean the effect of the doctor continuing to hold registration is such that it will undermine public confidence in the profession.*

202. The Tribunal found that Dr Fourie's lack of engagement and insight were significant concerns. It took into account that Dr Fourie had not engaged with the GMC during the course of this matter, except for his initial response to the concerns, and had not had the benefit of representation. But, as a result of his lack of engagement, the Tribunal did not have any evidence regarding Dr Fourie's insight or remediation.

203. The Tribunal took into account that although it had found there was a current and ongoing risk to patient safety, there had been no finding of actual patient harm. Dr Fourie was a Consultant Radiologist with over 30 years' experience at consultant level and the Tribunal considered that a period of suspension would afford Dr Fourie an opportunity to show insight and remediate and return safely to practise, if he so wished. The deficient

professional performance and dishonesty would be sufficiently marked by a period of suspension, and this sanction fell within the appropriate banding.

204. The Tribunal considered that although it had found Dr Fourie's deficient professional performance and misconduct to be high on the spectrum of seriousness, along with a high current and ongoing risk to public protection, Dr Fourie had not caused serious clinical harm. The behaviour did not demonstrate that his actions were fundamentally incompatible with continued registration. While Dr Fourie had not engaged with these proceedings, the Tribunal were not satisfied that he had failed to show a *persistent* lack of insight. In the Tribunal's view, the circumstances indicating erasure, as set out in paragraph 57 of the Guidance, were not made out.

205. The Tribunal considered that a lengthy period of suspension would adequately protect the public whilst providing Dr Fourie with an opportunity to develop insight, reflect on his deficient professional performance and misconduct, remediate his deficiencies and demonstrate that he is capable of returning to safe practise.

206. In all the circumstances the Tribunal was satisfied that suspension would maintain public confidence in the profession and uphold proper professional standards. It concluded that suspension represented the minimum appropriate sanction and that erasure would be harsh and disproportionate.

Length of suspension

207. The Tribunal took into account its conclusion that the current and ongoing risk to public protection was high. It determined that the appropriate length of suspension was 12 months, as anything less would not mark the seriousness of findings. This length of suspension would also allow Dr Fourie sufficient opportunity to re-engage with the GMC, reflect, and undertake the remediation required to demonstrate his insight and that his fitness to practise is no longer impaired. A 12-month suspension would satisfy all three limbs of public protection while ensuring fairness to Dr Fourie.

208. Accordingly, the Tribunal determined to impose a period of suspension of 12 months.

Review Hearing

209. The Tribunal determined to direct a review of Dr Fourie's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Fourie to demonstrate how he has developed his insight and the steps he has taken to remediate the concerns identified. It therefore may assist the reviewing Tribunal if Dr Fourie provides:

- Evidence of insight and remediation into his deficient professional performance;
- Evidence of insight and remediation into his misconduct;
- Up-to-date testimonials and references;

- Evidence of retraining;
- Evidence of re-engagement with the GMC.

210. Dr Fourie will also be able to provide any other information that he considers will assist.

Determination on Immediate Order - 03/08/2026

211. Having determined that Dr Fourie's registration should be suspended for 12 months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Fourie's registration should be subject to an immediate order.

Submissions

212. On behalf of the GMC, Mr Mensah, Counsel, submitted an immediate order was appropriate and necessary to protect the public and was in the interests of Dr Fourie. In balancing the public interest against the interests of the doctor, an immediate order was proportionate in all the circumstances.

The Tribunal's determination

213. The Tribunal had regard to paragraphs 79, 83 and 84 of the Guidance:

> *79 The MPT may impose an immediate order where 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. Where the MPT has imposed a sanction of conditions, it may impose an immediate order of conditions. Where the MPT has imposed a sanction of suspension or erasure, it may impose an immediate order of suspension.*
> *....*
>
> *83 The decision whether to impose an immediate order is at the discretion of the MPT based on the facts of the case. When deciding if an immediate order is needed the MPT should consider the seriousness of the proved allegation and the level of current and ongoing risk to public protection posed by the doctor.*
>
> *84 It will not usually be appropriate for a doctor to hold unrestricted registration until a sanction takes effect in cases where:*
> *a. the doctor poses a risk to patient safety*
> *b. the risk to one or more parts of public protection is high, and/or*
> *c. immediate action is needed to maintain public confidence in the medical profession.*

214. The Tribunal took into account that it had identified a high current and ongoing risk to all three limbs of public protection. It also took into account that it had determined it

necessary to impose a sanction of 12 months' suspension to reflect the gravity of Dr Fourie's deficient professional performance and misconduct, and to protect the public and to maintain public confidence in the profession.

215. Accordingly, the Tribunal determined that an immediate order was necessary to protect the public and to maintain public confidence in the profession.

216. This means that Dr Fourie's registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction, as already announced, will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

217. The interim order currently in place on Dr Fourie's registration will be revoked when the immediate order takes effect.

218. That concludes this case.

ANNEX A – 27/07/2026

SERVING AND PROCEEDING IN ABSENCE

219. Dr Fourie was neither present nor represented at the hearing. The Tribunal was provided with a copy of a service bundle from the GMC which included:

- Screenshots of the contact information held for Dr Fourie by the GMC, namely his registered postal address and email address;
- Email from GMC to Dr Fourie with draft bundle, dated 21 May 2026;
- Email from GMC to Dr Fourie with Notice of Allegation and final Rule 15 allegation, and delivery receipt, dated 15 June 2026;
- Notice of Allegation and final Rule 15 allegation sent by Special Delivery to Dr Fourie's registered address, and proof of delivery, delivered 22 June 2026;
- Returned post for Notice of Allegation and final Rule 15 allegation, dated June 2026;
- Email from MPTS to Dr Fourie with Notice of Hearing, and chaser, dated 19 June 2026 and 22 June 2026;
- Notice of Hearing sent by Special Delivery to Dr Fourie's registered address on 23 June 2026, and proof of delivery, delivered 24 June 2026;
- Email from GMC to Dr Fourie with final hearing bundles, dated 14 July 2026.

The Tribunal's Decision

Service

220. The Tribunal considered whether notice of this hearing has been properly served upon Dr Fourie in accordance with Rules 15 and 40 of the General Medical Council (Fitness to Practise) Rules 2004 (as amended)(the Rules) and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended)

221. Having considered all of the evidence received, the Tribunal noted that no read receipts or responses have been received for any of the correspondence sent to Dr Fourie by email. However, there was proof of delivery for the Notice of Hearing which was delivered to Dr Fourie's registered address on 24 June 2026.

222. As such, the Tribunal found that all reasonable efforts had been made to serve Dr Fourie with notice of the hearing scheduled to start today and that it was successfully delivered to his registered address. Accordingly, the Tribunal was satisfied that the MPTS Notice of Hearing had been properly served upon Dr Fourie.

Proceeding in absence

223. Having determined that the requirements of service had been met, the Tribunal then went on to consider whether it would be appropriate to proceed with this hearing in Dr Fourie's absence pursuant 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.*

224. In doing so, the Tribunal has taken account of the judgment in the case of *R v Jones [2003] 1 AC 1* and *R v Hayward, Jones & Purvis [2001] QB 862*. It bore in mind that it has a discretion to proceed with the case in Dr Fourie's absence, though this discretion is to be exercised with caution with the overall fairness of the proceedings in mind. The Tribunal had regard to all of the circumstances including the following:

- The nature and circumstances of the doctor's behaviour in absenting himself, in particular whether the behaviour was voluntary and therefore he had waived the right to be present;
- Whether an adjournment would resolve the matter;
- The likely length of any such adjournment;
- Whether the doctor, although absent, wished to be represented or whether he had waived his right to be represented;
- The extent of any disadvantage to the doctor in not being able to present his account of events;
- The seriousness of the allegation which affects the doctor, complainant and public;
- The public interest that a hearing should take place within a reasonable time;
- The effect of any delay on the memories of witnesses.

225. The Tribunal also had regard to the principles established in *GMC v Adeogba and GMC v Visvardis [2016] EWCA Civ 162*, that fairness to the doctor is of prime importance but that the Tribunal must also consider fairness to the GMC and the public interest.

226. On the basis of the information provided the Tribunal was satisfied that Dr Fourie has voluntarily waived his right to be present and represented at this hearing and that he is aware that the hearing can proceed in his absence. It noted that no reason has been given for Dr Fourie's absence. While Dr Fourie had previously engaged with the GMC, with the last contact being on around 29 August 2024, Dr Fourie has not engaged with the GMC or this investigation since that date and the Tribunal's view was that he appears to have disengaged with the regulatory process.

227. The Tribunal noted that no adjournment has been sought and considered that were it to adjourn today, it is very unlikely that Dr Fourie would attend a future hearing. In the Tribunal's view, there was no good reason not to proceed. The Tribunal considered that the GMC had two witnesses who were available to attend proceedings today to give evidence

and that it was in the public interest for the hearing to proceed to ensure that the witness evidence could be heard and the Allegation considered and determined. The Tribunal noted that the Allegation was serious and it would run counter to the protection, promotion and maintenance of the health and safety of the public if the matter was adjourned today with no good reason to do so.

228. The Tribunal noted that there would be disadvantage to Dr Fourie by not being able to give his account, but the Tribunal was confident that the interests of the doctor and his reasons for acting as he did (insofar as that is disclosed by documentation already submitted) could be fairly considered and put to witnesses and the evidence robustly tested by the Tribunal. The Tribunal considered that given that the dates of the Allegation spanned from 2021 to 2024, that it was in the interests of justice for the hearing to take place within a reasonable time to when the Allegation related and that favoured the hearing proceeding as scheduled this week.

229. The Tribunal has therefore determined that it is in the public interest to exercise its discretion and proceed with the case in Dr Fourie's absence.