

PUBLIC RECORD

Dates: 15/02/2021 - 17/02/2021

Medical Practitioner’s name: Dr Joel AJEWOLE
GMC reference number: 6081252
Primary medical qualification: MB BS 1983 University of Ibadan

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

Summary of outcome

Erasure

Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr John MacGregor
Lay Tribunal Member:	Ms Sue Disley
Medical Tribunal Member:	Professor Robert Mansel
Tribunal Clerk:	Ms Angela Carney

Attendance and Representation:

Medical Practitioner:	Not present and not represented
Medical Practitioner’s Representative:	N/A
GMC Representative:	Ms Helena Duong, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held partly in public and partly in private.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Facts - 16/02/2021

Background

1. Dr Ajewole qualified as a doctor in 1983 in Nigeria. Dr Ajewole moved to the Seychelles for work in 1987. Dr Ajewole came to the UK in 2005 and worked in A&E in Boston, Lincolnshire.
2. This case arises from criminal proceedings brought against Dr Ajewole in 2019 concerning the commission of serious sexual offences. The Allegation before this Tribunal concerns Dr Ajewole's conviction in relation to sexual offences, breach of bail conditions and failure to notify the GMC of the fact he was charged with, and subsequently convicted of, sexual offences.
3. At the time of the Allegation, Dr Ajewole was not working as a doctor. He has not worked as a doctor in the following period.
4. Dr Ajewole was arrested by Lincolnshire police and interviewed under caution on 20 March 2019. In that interview, he gave an account of consensual sex. On or around 21 March 2019, Dr Ajewole was charged with criminal offences, including rape. He was granted police bail. One of the conditions of his bail was that he was not permitted to contact the victim or attend her home address.
5. After Dr Ajewole was released on bail, he attended the victim's address and made contact with her. The victim called the police to report the incident. Following this incident, Dr Ajewole was not readmitted to bail and remained in custody, on remand, until his criminal trial. He was not the subject of criminal prosecution in relation to any contravention of his bail conditions.
6. The matter was referred to the GMC on 13 May 2019 by the police who informed the GMC that Dr Ajewole had been charged for the offence of rape and was on remand in prison awaiting trial.
7. On 20 August 2019, Dr Ajewole entered guilty pleas to two counts of rape, committed in December 2018 and 20 March 2019 respectively. He also pleaded guilty to assault by penetration, committed on 20 March 2019. He was sentenced to a period of imprisonment

of nine and a half years.

The Outcome of Applications Made during the Facts Stage

8. The Tribunal granted the GMC's application, made pursuant to Rule 40 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that service had been properly effected and to proceed in Dr Ajewole's absence. The Tribunal's full decision on the application is included at Annex A.

9. The Tribunal granted the GMC's application, made pursuant to Rule 41 of Rules, to exclude the public from those parts of the proceedings where the facts of the case may lead to the identity of the victim being disclosed and in relation to certain discrete matters concerning Dr Ajewole. The Tribunal's full decision on the application is included at Annex B.

10. The Tribunal granted the GMC's application, made pursuant to Rule 17(6) of the Rules, that, paragraph 4b of the Allegation should be amended due to a typographical error. The Tribunal's full decision on the application is included at Annex C.

The Facts to be Determined

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

1. On or around 21 March 2019 you:
 - a. were charged by Lincolnshire police with:
 - i. three counts of rape of a woman aged 16 years or older contrary to section 1(1) of the Sexual Offences Act 2003;
To be determined
 - ii. three counts of sexually assaulting a female person 13 years or older by penetration contrary to section 2 of the Sexual Offences Act 2003;
To be determined
 - b. granted conditional bail preventing you from:
 - i. contacting the victim;
To be determined
 - ii. attending the victim's home address;
To be determined
 - c. breached your bail conditions by:

- i. contacting the victim;
To be determined
 - ii. attending the victim's home address.
To be determined
2. On 20 August 2019 at Lincoln Crown Court you were convicted of:
 - a. two counts of rape of a woman aged 16 years or older contrary to section 1(1) of the Sexual Offences Act 2003;
To be determined
 - b. sexually assaulting a female person 13 years or older by penetration contrary to section 2 of the Sexual Offences Act 2003.
To be determined
3. On 2 September 2019 you were sentenced to:
 - a. a restraining order to protect the victim;
To be determined
 - b. 114 months imprisonment;
To be determined
 - c. register under section 92 of the Sexual Offences Act 2003 indefinitely.
To be determined
4. You failed to notify the GMC without delay that you had been:
 - a. charged with the criminal offences detailed in paragraph 1;
To be determined
 - b. convicted of the criminal offences detailed in ~~paragraph 4~~ paragraph 2.
To be determined

Documentary Evidence

12. The Tribunal had regard to the documentary evidence provided. The evidence included but was not limited to the following:

- Record of Dr Ajewole's Police interview, dated 20 March 2019
- Online complaint submitted by Lincolnshire Police to the GMC, dated 13 May 2019

- Telephone note of call between GMC and Lincolnshire Police, dated 6 June 2019
- Certificate of Conviction, dated 10 October 2019
- Sentencing remarks of HHJ Pini QC, dated 2 September 2019
- Letter from Dr Ajewole to the GMC, dated 4 May 2020
- Letter from Dr Ajewole to the GMC, dated 10 January 2021

13. The Tribunal had regard to the following witness statements on behalf of the GMC. None of the witnesses gave oral evidence to the Tribunal:

- Witness statements of Ms A, GMC Investigation Office, dated 12 November 2019 and 3 February 2020
- Witness statement of Ms B, DBS Disclosure Manager and Chief Officer Delegate, within the Information Management Unit of Lincolnshire Police, dated 12 March 2020.

The Tribunal's Approach

14. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Ajewole does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1a

16. The Tribunal noted the record of Dr Ajewole's Police Interview dated 20 March 2019. It has also taken account of the on-line complaint, dated 13 May 2019, submitted by Mr C of Lincolnshire Police. In the complaint form, Mr C stated that on, 19 March 2019, the victim had made a complaint of rape against Dr Ajewole. He stated that Dr Ajewole had been charged with the offence and was on remand in prison awaiting trial later that year.

17. The Tribunal also had regard to a telephone note, dated 6 June 2020, which recorded a telephone conversation between Mr C and GMC Investigation Officer, Ms A. The telephone note records that Mr C informed the GMC that Dr Ajewole had been charged with three counts of rape and three counts of assault by penetration.

18. The Tribunal took account of the witness statements dated 12 November 2019 and 3 February 2020 from Ms A, in which she confirmed receipt of the on-line complaint form from Mr C. Ms A also confirmed that on 6 June 2019, during a telephone call with Mr C, Mr C confirmed that Dr Ajewole had been charged with three counts of rape and three counts of

assault by penetration.

19. The Tribunal accepted the evidence in Ms A’s witness statement in relation to the offences that Dr Ajewole was charged with. It was consistent with the telephone note of 6 June 2020. No contradictory evidence was available to the Tribunal. Accordingly, the Tribunal accepts that Dr Ajewole was charged with the offences set out in part 1a of the Allegation.

20. None of the information available to the Tribunal confirms the exact date that Dr Ajewole was charged with the offences set out in the Allegation. The original referral by the police to the GMC refers to “*an allegation of rape*” rather than to multiple allegations. It records that Dr Ajewole was charged for “*the offence*”. In her witness statement, Ms B, DBS Disclosure Manager and Chief Officer Delegate within the Information Management Unit of Lincolnshire Police, signed and dated 12 March 2020, states that Dr Ajewole was charged with “*an offence of Rape on 21 March 2019*”. This suggests that Dr Ajewole was only charged with one offence in March 2019. However, the note of the telephone conversation between Mr C and the GMC on 6 June 2019 records that Dr Ajewole had been charged with all of the offences set out in the Allegation. This conversation took place a matter of months after March 2019. Accordingly, although the precise date that Dr Ajewole was charged with the offences is not entirely clearly, given the terms of the telephone note of 6 June 2019 and the witness statement of Ms A, the Tribunal was satisfied, on the balance of probabilities, that Dr Ajewole was charged with the offences set out in the Allegation around the date set out in the Allegation.

Paragraph 1b

21. The Tribunal took account of the witness statement of Ms B. In her statement Ms B explained that she had searched the Niche database, a nationally recognised database on which criminal intelligence is stored for Lincolnshire police. She confirmed that Dr Ajewole was charged with an offence of rape on 21 March 2019. Dr Ajewole was granted bail on 21 March 2019. It was a condition of bail that Dr Ajewole did not contact the victim or attend at her home address. Ms B states that, immediately after being released on bail, Dr Ajewole attended at the victim’s home address and made contact with her.

22. The Tribunal notes that Dr Ajewole sent a letter to the GMC, dated 4 May 2020, which was headed “*Breach of Bail Condition*”. The letter contains a clear acceptance that Dr Ajewole was subject to bail conditions. In the letter, Dr Ajewole states that, at the time, he did not understand his bail conditions. He provides an explanation for contacting the victim and visiting her home. In the letter, Dr Ajewole states that:

“I did not realise that that was breaking bail”

23. The Tribunal accepts the evidence in Ms B’s witness statement in relation to the bail conditions that were put in place in relation to Dr Ajewole. Accordingly, paragraph 1b was proved on the balance of probabilities.

Paragraph 1c

24. Ms Duong recognised that Dr Ajewole was neither charged with, nor convicted of, any breach of his bail conditions. The Tribunal accepts that there is no conclusive finding by a Court that Dr Ajewole breached his bail conditions. However, the Tribunal is required to consider the available material and assess whether, on the balance of probabilities, the GMC has established that Dr Ajewole did not comply with his bail conditions.

25. The Tribunal has found that Dr Ajewole was subject to bail conditions which required him to refrain from contacting the victim or attending at her home address. In her witness statement, Ms B states that Dr Ajewole attended the home of his victim and attempted to make contact with her. She states that the victim called the police and Dr Ajewole was arrested. However, he was not charged with any offence.

26. The evidence of Ms B is consistent with the letter dated 4 May 2020, from Dr Ajewole to the GMC, which is headed “*Breach of Bail Conditions*”. In the letter, Dr Ajewole confirmed that following his release from Police custody, he attempted to check into a hotel, but he did not have sufficient money to do so. He then attempted to check into bed and breakfast accommodation, but it appeared to be closed. He states that he then tried to sleep in a park, but it was too cold. He states that he decided to contact a friend for accommodation but did not have the friend’s telephone number. He states that he went to the victim’s home to ask for his friend’s telephone number. In the letter, Dr Ajewole accepts that he approached the victim’s house. He accepts that he spoke to the victim. In the letter, Dr Ajewole has put forward an explanation for his actions. However, contained within the letter is a clear admission that he contacted the victim and attended at her home address. Dr Ajewole states that:

“I did not realise that that was breaking bail. It was my first time with the police”

27. On the basis of the available evidence, including the witness statement of Ms B and the letter of 4 May 2020, The Tribunal determined and found paragraph 1c proved, in its entirety.

Paragraphs 2 and 3

28. The Tribunal had regard to the certificate of conviction, signed by an officer of the court and dated 10 October 2019, confirming Dr Ajewole’s conviction for two counts of rape of a woman aged 16 years or older contrary to section 1(1) and sexually assaulting a female person 13 years or older by penetration contrary to section 2 of the Sexual Offences Act 2003. The certificate of conviction also stated that on 2 September 2019 Dr Ajewole was sentenced to:

(i) a restraining order to protect the victim,

(ii) 114 months imprisonment, and

(iii) required Dr Ajewole to register under section 92 of the Sexual Offences Act 2003 indefinitely. DBS

29. The Tribunal further had regard to Rule 34(3) of the Rules, which provides that:

‘Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom... shall be conclusive evidence of the offence committed.’

Accordingly, having had regard to the signed certificate of conviction, the Tribunal found paragraphs 2 and 3 proved.

Paragraph 4

30. The Tribunal took account of Paragraph 75 of Good Medical Practice (2013), which states:

‘75. You must tell us without delay if, anywhere in the world:
a. you have accepted a caution from the police or been criticised by an official inquiry
b. you have been charged with or found guilty of a criminal offence
c. another professional body has made a finding against your registration as a result of fitness to practise procedures.’

31. There was no material before the Tribunal that demonstrated that Dr Ajewole had taken any positive steps to inform the GMC of his arrest or his conviction. If such material existed, it would be a simple matter for it to be produced.

32. The Tribunal took account of Ms A’s witness statement dated 12 November 2019, in which she stated, that, to the best of her knowledge, Dr Ajewole did not inform the GMC that he had been charged with criminal offences or that he had been convicted of criminal offences. It also took account of Ms A’s supplementary witness statement dated 3 February 2020, in which she explained the GMC’s a case management system which stores correspondence in relation to a doctor’s registration. She stated that this includes any documentation which the GMC sends or receives in relation to an investigation into a doctor’s fitness to practise. Had Dr Ajewole informed the GMC of the fact that he had been charged and/ or convicted of criminal offences then this would have been recorded on the system. There were no entries indicating any such contact from Dr Ajewole in relation to these matters.

33. The Tribunal noted that in the letter dated 4 May 2020, headed “Breach of Bail Conditions”, Dr Ajewole states that:

“It did not occur to me to inform the GMC”

It is not clear whether Dr Ajewole is referring to the fact that he was charged with criminal offences or to the breach of his bail conditions.

34. The Tribunal was satisfied, on the balance of probabilities, that Dr Ajewole failed to notify the GMC, without delay, that he had been charged with the criminal offences and that he had been convicted of the criminal offences. The Tribunal placed significant weight on the witness statement of Ms A and the absence of any contemporaneous documentation suggesting any contact by Dr Ajewole with the GMC in relation to these matters. Accordingly, the Tribunal found paragraph 4 proved in its entirety.

The Tribunal's Overall Determination on the Facts

35. The Tribunal has determined the facts as follows:

1. On or around 21 March 2019 you:
 - a. were charged by Lincolnshire police with:
 - i. three counts of rape of a woman aged 16 years or older contrary to section 1(1) of the Sexual Offences Act 2003;
Determined and found proved
 - ii. three counts of sexually assaulting a female person 13 years or older by penetration contrary to section 2 of the Sexual Offences Act 2003;
Determined and found proved
 - b. granted conditional bail preventing you from;
 - i. contacting the victim;
Determined and found proved
 - ii. attending the victim's home address;
Determined and found proved
 - c. breached your bail conditions by:
 - i. contacting the victim;
Determined and found proved
 - ii. attending the victim's home address.
Determined and found proved
2. On 20 August 2019 at Lincoln Crown Court you were convicted of:

- a. two counts of rape of a woman aged 16 years or older contrary to section 1(1) of the Sexual Offences Act 2003;
Determined and found proved
- b. sexually assaulting a female person 13 years or older by penetration contrary to section 2 of the Sexual Offences Act 2003.
Determined and found proved
3. On 2 September 2019 you were sentenced to:
 - a. a restraining order to protect the victim;
Determined and found proved
 - b. 114 months imprisonment;
Determined and found proved
 - c. register under section 92 of the Sexual Offences Act 2003 indefinitely.
Determined and found proved
4. You failed to notify the GMC without delay that you had been:
 - a. charged with the criminal offences detailed in paragraph 1;
Determined and found proved
 - b. convicted of the criminal offences detailed in ~~paragraph 4~~ paragraph 2.
Determined and found proved

Determination on Impairment - 17/02/2021

1. 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, Dr Ajewole's fitness to practise is impaired by reason of his convictions and/ or misconduct.

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing. The GMC did not call any witnesses.

Submissions

3. On behalf of the GMC, Ms Duong stated that the Tribunal must now consider whether Dr Ajewole's fitness to practise is impaired on the basis of the facts found proved. She

submitted that Dr Ajewole’s fitness to practise is impaired by reason of conviction and misconduct.

4. Ms Duong stated that, in approaching its decision, the Tribunal should be mindful of its responsibility to uphold the overarching objectives as set out in the Medical Act 1983 (as amended), namely to:

‘a. protect, promote and maintain the health, safety and wellbeing of the public;

b. maintain public confidence in the profession;

c. promote and maintain proper professional standards and conduct for members of the profession.’

5. Ms Duong reminded the Tribunal that there is no burden or standard of proof at this stage, it is a matter of judgment for the Tribunal. She submitted that a finding of impairment was required to maintain public confidence in the profession and to promote and maintain proper standards of conduct for members of the medical profession.

Misconduct

6. In relation to the non-conviction matters, Ms Duong reminded the Tribunal that it should approach its decision on impairment of Dr Ajewole’s fitness to practise in two stages. The Tribunal should first consider whether the doctor’s actions amount to misconduct and then to consider whether his fitness to practice is impaired as a result of any such misconduct. She reminded the Tribunal of the guidance provided in *Cheatle v. General Medical Council* [2009] EWCA 645 (Admin).

7. Ms Duong submitted that the facts found proved in relation to paragraphs 1c and 4 amounts to misconduct. She reminded the Tribunal that there is no statutory definition of misconduct and referred the Tribunal to the case of *Roylance v GMC (No 2)* [2000] 1 AC 311, Lord Clyde at 331B – 334B:

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

8. Ms Duong accepted that not every failing will amount to misconduct. Ms Duong told the Tribunal that it must consider whether the matters are sufficiently serious to amount to misconduct. She referred to the guidance provided by Collins J in the case of in *Nandi v*

General Medical Council [2004] EWHC 2317 (Admin):

‘The adjective “serious” must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners...’

9. Ms Duong submitted that the facts found proved by the Tribunal amount to misconduct in two respects. Firstly, Dr Ajewole’s breach of his bail conditions. Secondly, his failure to inform the GMC that he had been charged with, and subsequently convicted of, criminal offences, within a reasonable period of time.

10. In relation to the breach of bail, she submitted that it was a specific condition of bail that Dr Ajewole did not contact the victim or attend at her home address. When he left police custody, he did exactly that. This was entirely inappropriate. While an explanation has been put forward by Dr Ajewole, namely a desire to obtain a phone number for a friend, this requires to be viewed in context. It was not an appropriate way to deal with the situation. Ms Duong submitted that it was unlikely that Dr Ajewole did not know he could not go to the victim’s address, given that this was a specific condition of his bail. A violent rape had been committed shortly before. That was a frightening experience for the victim. That is clear from the remarks of the sentencing judge. The bail conditions sought to ensure protection for the victim. That ought to have been apparent to Dr Ajewole. His actions, in seeking to contact the victim in breach of his bail conditions, would be viewed as deplorable by fellow professionals.

11. In relation to Dr Ajewole’s failure to notify the GMC without delay that he had been charged with, and subsequently convicted of, criminal offences, Ms Duong referred the Tribunal to paragraph 75 of Good Medical Practice (2013) (GMP), which states:

‘75. You must tell us without delay if, anywhere in the world:

- a. you have accepted a caution from the police or been criticised by an official inquiry*
- b. you have been charged with or found guilty of a criminal offence*
- c. another professional body has made a finding against your registration as a result of fitness to practise procedures’*

12. Ms Duong submitted that the seriousness of the underlying offences weighs in favour of a finding of misconduct. She stated that it is important that doctors are open and honest with their regulators and submitted that this is a clear breach of GMP, in that there had not simply been a delay, but there had been no notification at all.

13. Ms Duong reminded the Tribunal that Dr Ajewole was not working as a doctor at the time he was charged with the offences. He was in custody for a very significant period after the final offence. She highlighted that Dr Ajewole had offered an explanation for failing to

contact the GMC in his letter of 4 May 2020. The reasons set out include the *'the attendant shock'* and *'fast pace of the events'*. She submitted that in relation to the conviction, Dr Ajewole would have known that the GMC were aware of the police investigation, as he had responded to correspondence with the GMC and provided his Work Details Form. Notwithstanding, Ms Duong submitted that Dr Ajewole remained under a duty to inform the GMC of his conviction. This was a serious matter and a finding of misconduct should be made.

Impairment

14. In relation to the issue of impairment, Ms Duong referred to *CHRE v NMC & Paula Grant* [2011] EWHC 927 (Admin) and the guidance provided by Dame Janet Smith in the Fifth Shipman Report, namely whether the doctor:

- 'a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; 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 likely 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.'*

15. Ms Duong submitted that primarily (b) and (c) are engaged in this case. She stated that although consideration of impairment will require the Tribunal to look at Dr Ajewole's past misconduct, the question of impairment relates to his current fitness to practise.

16. Ms Duong referred the Tribunal to the case of *R (Nakash) v Metropolitan Police Service and General Medical Council (Interested Party)* [2014] EWHC 3810 (Admin) where the Court observed that:

'The question is always whether, in the light of all the relevant factors known to them as at the date of the hearing, the doctor's fitness to practise is impaired.'

17. Ms Duong submitted that this is a case of sexual offending of such seriousness that it requires a finding of impairment to uphold public confidence in the profession and to promote and maintain proper standards.

18. Ms Duong stated that Dr Ajewole has been convicted of very serious sexual offences that include a significant degree of violence. That is clear from the sentencing remarks of HHJ Pini QC. The offences resulted in a lengthy sentence of imprisonment and the Tribunal can readily reach the conclusion that Dr Ajewole's conduct has brought the medical profession into disrepute.

19. Ms Duong referred the Tribunal to paragraph 65 of GMP, which states:

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

20. Ms Duong submitted that Dr Ajewole has breached the principle set out in paragraph 65 and also breached a fundamental tenet of the profession, in failing to act with integrity. She submitted that public trust in the profession, and in the regulatory process, would be greatly damaged if there were no finding of impairment.

21. Ms Duong reminded the Tribunal of the aggravating features in this case, which included the victim's vulnerability and that she had previously been the victim of violence at Dr Ajewole's hands. She referred the Tribunal to the sentencing remarks of HHJ Pini QC.

22. Ms Duong submitted that Dr Ajewole's actions against the victim were an abuse of the position of trust he enjoyed as a doctor. She reminded the Tribunal that the victim told the Court that she refrained from going to the Police in order not to tarnish Dr Ajewole's good name as a doctor. She submitted that in the victim's eyes Dr Ajewole was protected by his status as a doctor.

23. Ms Duong acknowledged XXX but stated that this mitigates his conduct to a limited extent. He was deemed fit to stand trial and was convicted of serious criminal offences. XXX

24. Ms Duong submitted that, Dr Ajewole, in explaining breaching his bail conditions was in order to get a telephone number, provided no justification for his actions. She stated that the appropriate course of action would have been to go to the police to facilitate this.

25. Ms Duong acknowledged that the Tribunal was not at the stage of considering whether any sanction was appropriate. However, she drew the Tribunal's attention to paragraphs 56g, 149 and 150 of the Sanction Guidance (November 2020) (the SG). She did so to demonstrate the serious nature of the offences which Dr Ajewole has been convicted of. Paragraphs 56g, 149 and 150 of the SG states:

'Conduct in a doctor's personal life

56. Tribunals are also likely to take more serious action where certain conduct arises in a doctor's personal life, such as (this list is not exhaustive):

d. misconduct involving violence or offences of a sexual nature.

Sexual misconduct

149. This encompasses a wide range of conduct from criminal convictions for sexual assault and sexual abuse of children (including child sex abuse materials) to sexual misconduct with patients, colleagues, patients' relatives or others. See further guidance on sex offenders and child sex abuse materials at paragraphs 151–159.

150. Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.'

26. Ms Duong reminded the Tribunal that Dr Ajewole is required to register as a sex offender. Ms Duong also referred the Tribunal to paragraphs 109f and 109g of the SG, which state:

'109. Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

f. Offences of a sexual nature, including involvement in child sex abuse materials (see further guidance below at paragraphs 151 - 159).

g. Offences involving violence.'

27. Ms Duong stated that in considering impairment, the Tribunal should look at all relevant matters in the round. She submitted that in this case there is the added concern that Dr Ajewole has not worked and there is no evidence that he has kept his clinical skills and knowledge up to date.

28. In relation to insight Ms Duong stated that this is a case involving a particularly serious departure from GMP. She stated that the matters that Dr Ajewole faces are so serious that there is little that Dr Ajewole could do to demonstrate sufficient insight. Indeed, the Tribunal may consider that no level of insight into Dr Ajewole's conduct could justify making a finding of no impairment, as such a finding is necessary to maintain public confidence in the profession. She submitted that Dr Ajewole's insight is limited. She stated the Tribunal may find some evidence of insight from Dr Ajewole's guilty plea and the fact that he has not sought to go behind the findings. She reminded the Tribunal that Dr Ajewole's responses do not address his insight into his offending.

29. Ms Duong submitted that there is a risk of repetition in this case. She stated that there were two occasions when the offences occurred and then there was a breach of bail conditions. She reminded the Tribunal that Dr Ajewole has provided no evidence to demonstrate that the risk of repetition is low.

The Relevant Legal Principles

30. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision on impairment is a matter for the Tribunal's judgement alone.

31. The Tribunal requires to consider whether Dr Ajewole's fitness to practice is impaired

as a result of his convictions and/ or also as a result of any misconduct.

32. In relation to the issue of misconduct, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct and then whether the finding of that misconduct should lead to a finding of impairment.

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

34. 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 the case of Council for *Healthcare Regulatory Excellence v NMC and Grant* [2011] EWHC 927. In particular the Tribunal considered whether its findings of fact show that Dr Ajewole’s fitness to practise is impaired in the sense that he:

“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”

The Tribunal’s Determination on Impairment

Conviction

35. In reaching its decision on impairment the Tribunal has borne in mind the need to consider the statutory overarching objectives, which are as follows:

- To protect, promote, and maintain the health, safety, and well-being of the public;
- To promote and maintain public confidence in the medical profession;
- To promote and maintain proper professional standards and conduct for members of that profession.

36. The Tribunal considers that the second and third principles set out above are highly relevant. The Tribunal has borne in mind the nature and gravity of Dr Ajewole’s offences. The Tribunal cannot go behind the Court’s decision and has already taken the Certificate of conviction to be conclusive proof of Dr Ajewole’s conviction. Dr Ajewole was convicted of two counts of rape and one count of sexual assault. He was sentenced to nine and a half years in prison. He is still serving his custodial sentence. He requires to register under section 92 of the Sexual Offences Act 2003 indefinitely.

37. The seriousness of the offences is reflected in the sentencing remarks of HHJ Pini QC. HHJ Pini QC considered that there was violence which went beyond that inherent in the offence of rape. The victim described Dr Ajewole as “...acting like a wild animal, biting on her breasts as a punishment.” During one of the rapes, Dr Ajewole got a small pair of scissors and threatened to cut the victim’s genitals. HHJ Pini QC records that the victim genuinely believed that Dr Ajewole was going to cut her. The victim genuinely thought she was going to die. She was left with bruises and bite marks. HHJ Pini QC recorded that the victim was “deeply traumatized”.

38. Dr Ajewole has breached fundamental tenets of the profession, including paragraph 65 of GMP. His conduct has not justified the public’s trust in the medical profession. He has failed to act with integrity. The Tribunal considers that the sexual offences he has committed seriously undermine public confidence in the profession. Fellow practitioners, and members of the public, would consider his conduct to be deplorable. The Tribunal has no doubt that Dr Ajewole’s convictions have brought the medical profession into disrepute. Indeed, this is acknowledged by Dr Ajewole in his letter to the GMC dated 10 January 2021.

39. Turning to the matter of Dr Ajewole’s insight, the Tribunal noted that Dr Ajewole entered a guilty plea in the criminal proceedings. He has offered no excuse for his actions. HHJ Pini QC considered that he was “very remorseful”. In the letter dated 10 January 2021, Dr Ajewole acknowledged that his actions had brought the medical profession into disrepute and offered an apology to the GMC.

40. There is therefore an indication of some insight on the part of Dr Ajewole. It is, however, limited. There is no information before the Tribunal that indicates that Dr Ajewole has significant insight into the serious nature of his actions, their impact on the victim, or the impact his actions have had on public trust in the medical profession. There is no evidence that he has taken any steps towards remediation or any evidence of how he would handle similar situations again in the future. On the basis of the available information, the Tribunal considers that the position remains that the behaviour has not been remediated and there is a significant risk of repetition.

41. The Tribunal has also had regard to comments made in the sentencing remarks of HHJ Pini QC in relation to XXX Dr Ajewole was deemed fit to stand trial and was duly convicted of serious criminal offences notwithstanding XXX identified by the sentencing judge. XXX

42. Dr Ajewole’s conviction has brought the medical profession into disrepute. The material available to the Tribunal does not indicate that the risk of repetition is low. There is no evidence of significant insight or remediation. The Tribunal considers that the conviction serves to undermine public confidence in the medical profession. The Tribunal considers that reasonable and well-informed members of the public would be shocked if a finding of impairment were not made in a case of such seriousness. Accordingly, the Tribunal has determined that Dr Ajewole fitness to practise is currently impaired by reason of his conviction. A finding of impairment is necessary to promote and maintain public confidence

in the medical profession, and to promote and maintain proper standards of conduct for the members of the medical profession.

Misconduct

43. The Tribunal next considered whether Dr Ajewole’s breach of bail conditions and his failure to report to the GMC, without delay, the fact he had been charged with, and subsequently convicted of, criminal offences amounted to misconduct.

Breach of Bail Conditions

44. The Tribunal has found that it was a condition of Dr Ajewole being granted bail that he should not contact the victim or attend at her home address. The bail conditions were set to protect the victim. On being released from police custody, Dr Ajewole attended at the home of the victim and made contact with her. Given the serious nature of the criminal offence, which included a significant degree of violence, that must have been very distressing for the victim. As HHJ Pini QC noted in the sentencing remarks, the victim considered that Dr Ajewole was going to kill her such was the level of violence in the offence.

45. The Tribunal was mindful of the need to promote and maintain standards of conduct for members of the profession. The Tribunal considers that this is a very serious matter. The Tribunal considers that Dr Ajewole failed to act with integrity. It considers that fellow professionals, and members of the public, would regard Dr Ajewole’s action as deplorable. His actions fell so far short of the standards to be reasonably to be expected of a doctor as to amount to misconduct.

Failure to Notify the GMC

46. The Tribunal next considered whether Dr Ajewole’s delay in notifying the GMC of the fact that he had been charged with, and subsequently convicted of, criminal offences without delay amounted to misconduct. In considering whether Dr Ajewole’s actions amounted to misconduct the Tribunal had specific regard to paragraph 75 of GMP which provides that:

‘75 You must tell us without delay if, anywhere in the world:

a ...

b you have been charged with or found guilty of a criminal offence’

47. It appears that Dr Ajewole was unaware of the obligation to report that he had been charged with, and subsequently convicted of, criminal offences. While Dr Ajewole had not been practising for some time, the Tribunal considers that this is still a serious matter. It is a clear breach of paragraph 75(b) of GMP. For the regulatory process to work effectively, it is important that doctors are open and honest with their regulators. The Tribunal considers that the matter is so serious that it amounts to misconduct.

Impairment by Reason of Misconduct

48. The Tribunal having found that the facts found proved in relation to paragraphs 1c and 4 amounted to misconduct, went on to consider whether, as a result of that misconduct Dr Ajewole's fitness to practise is currently impaired.

49. In relation to the breach of bail conditions, the Tribunal considers that Dr Ajewole's fitness to practice is currently impaired. Dr Ajewole's explanation for his actions is that he was looking to obtain a phone number for a friend to contact. He was in a state of confusion as he had not been involved with the police before and was unaware that he should not contact his victim. The Tribunal does not doubt that being arrested would have had a serious impact on Dr Ajewole. Moreover, the Tribunal notes that XXX albeit there is no information before the Tribunal indicating XXX at the time of his arrest. However, notwithstanding these issues, the fact remains that Dr Ajewole did precisely what he was not allowed to do. He contacted the victim immediately after being released from police custody. That is a serious matter because of the severe impact his actions would have had on the victim, given the sentencing remarks made by HHJ Pini QC referred to above. There is no material before the Tribunal which indicates any meaningful insight on the part of Dr Ajewole in relation to the impact his actions had on the victim or in the public trust and confidence in the profession. There is no material indicating any remediation such that the risk of repetition is low if Dr Ajewole was in a similar situation. Accordingly, the Tribunal finds his fitness to practice is currently impaired.

50. In relation to the failure to report the fact of his arrest and conviction to the GMC without delay, the Tribunal does not make a finding of current impairment. Dr Ajewole has stated in a letter to the GMC, dated 4 May 2020, that he was unaware that he required to report such matters to the GMC. Dr Ajewole's apparent ignorance of the requirement to notify the GMC of his arrest, and conviction, is a matter of concern. It is important that doctors are open and honest with their regulators and report such issues without delay. That is particularly so in relation to serious sexual offences.

51. However, the Tribunal considers that Dr Ajewole's failure to notify the GMC within a reasonable period of time requires to be viewed in context. Part of that context is that Dr Ajewole was detained in custody for the majority of the period since the last offence. Moreover, the available information suggests that he XXX. These issues are relevant to the delay in informing the GMC. There came a point in time where the police had informed the GMC of the charges and the GMC began to correspond with Dr Ajewole in relation to the regulatory proceedings. Dr Ajewole has responded to such correspondence. Therefore, from that point onwards, Dr Ajewole may reasonably have considered that there was no need to make a separate notification to the GMC or to keep them updated on matters.

52. The Tribunal acknowledges that Dr Ajewole took no steps to inform the GMC of either his arrest or conviction. In many cases, that will result in a finding of impairment. However, the material available to the Tribunal indicates that Dr Ajewole is clearly now aware of the

regulatory requirement to notify the GMC of such matters given the terms of his letter dated 4 May 2020. The Tribunal considers that the matter is remediable. The letter Dr Ajewole has sent to the GMC shows a degree of insight into this matter. The Tribunal considers that Dr Ajewole's fitness to practice was impaired as a result of misconduct in 2019 when he failed to inform the GMC of his arrest. However, the Tribunal needs to consider whether Dr Ajewole's fitness to practice is currently impaired on this ground. Overall, the Tribunal was not satisfied that his fitness to practice is currently impaired on this ground.

53. In the specific circumstances of this case, the Tribunal does not consider that the failure to inform the GMC of his conviction demonstrates current impairment given that the correspondence indicates that the GMC was in contact with the police regarding the criminal proceedings and were corresponding with Dr Ajewole in relation to the regulatory proceedings.

Determination on Sanction - 17/02/2021

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

The Evidence

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

Submissions

3. On behalf of the GMC, Ms Duong submitted that, in this case, given the seriousness of the offence that the doctor has been convicted of, the GMC submits that the necessary and proportionate sanction is one of erasure.

4. Ms Duong reminded the Tribunal of the relevant legal principles. Firstly, it is a matter for the Tribunal in exercising its own judgment to determine what sanction, if any, should be imposed. Secondly, the Tribunal should apply the principle of proportionality, balancing the public interest and that of Dr Ajewole. She submitted that the SG may assist the Tribunal to reach a sanction that is proportionate in the circumstances of this case. Thirdly, the sanction is not intended to be punitive, but it may have a punitive effect.

5. Ms Duong identified relevant aggravating and mitigating features in this case and referred the Tribunal to sections of its determination on impairment which the GMC submits are relevant to the issue of sanction. She reminded the Tribunal that sexual offences are listed as an aggravating feature in the SG. She stated that Dr Ajewole committed two separate rapes and a sexual assault. The offences were marked by use of significant violence. She stated that the victim was vulnerable because of her circumstances, XXX. She reminded

the Tribunal of the limited evidence of insight and remediation. She stated that Dr Ajewole entered a guilty plea and offered an apology but, nonetheless, the GMC submits that the remediation it is still limited.

6. Ms Duong addressed the Tribunal on mitigation features. There are no previous, similar, fitness to practise findings against Dr Ajewole. A previous case concerning undertakings following a Performance Assessment were far removed from the present case. She stated that in any event, the previous concerns are of a different nature and should not aggravate the sanction in this case. She also addressed the Tribunal on XXX. She submitted that it could be deemed as being relevant to mitigation given the comments made by the sentencing judge in the criminal proceedings.

7. Ms Duong reminded the Tribunal that misconduct of a sexual nature is conduct upon which a Tribunal is more likely to need to take serious action. She submitted that this is not a case where it would be appropriate to take no action or to impose conditions. Neither would be sufficient to protect the wider public interest to uphold public confidence promote standards in the profession. She stated that it is also difficult to know what conditions would be workable to address the concerns in this case.

8. In relation to suspension Ms Duong referred the Tribunal to paragraph 92 the SG, which states:

'92. Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).'

9. Ms Duong submitted that the SG provides that suspension may be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration. She submitted that this is a case where the phrase *'fundamentally incompatible with continued registration'* is particularly fitting given the seriousness of the offences and the way in which they were committed. She reminded the Tribunal of its impairment determination where it found that Dr Ajewole breached fundamental tenets of the profession including paragraph 65 of GMP. She submitted that Dr Ajewole's conduct has not justified the public's trust in the medical profession and he failed to act with integrity.

10. Ms Duong submitted that Dr Ajewole's convictions for sexual offences demonstrated conduct which is fundamentally incompatible with continued registration. She submitted that erasure is the only appropriate sanction in this case and referred the Tribunal to paragraphs 108 and 109 of the SG, as follows:

‘108 Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.

109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

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

b ...

c. Doing serious harm to others (patients or otherwise), either deliberately or through incompetence and particularly where there is a continuing risk to patients (see further guidance below at paragraphs 129–132 regarding failure to provide an acceptable level of treatment or care).

d ...

e ...

f. Offences of a sexual nature, including involvement in child sex abuse materials (see further guidance below at paragraphs 151 - 159).’

11. Ms Duong submitted that erasure may be appropriate even where the doctor does not present a risk to patient safety, but where the action is necessary to maintain public confidence in the profession. She also submitted that sub-paragraphs a, c, f and g apply in this case. She referred the Tribunal to paragraph 119 of the SG:

‘119. As a general principle, where a doctor has been convicted of a serious criminal offence or offences, they should not be permitted to resume unrestricted practice until they have completed their sentence.’

12. Ms Duong stated that this principle is also reflected in the case of *CRHCP v GDC and Fleischmann [2005] EWHC 87 (Admin)*, where Newman J stated:

“... I am satisfied that as a general principle, where a practitioner has been convicted of a serious criminal offence or offences he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise. ...”

13. Ms Duong reminded the Tribunal that Dr Ajewole is part way through a custodial sentence which will end in 2029, although of course he will likely be released at an earlier point. She also stated that Dr Ajewole is also subject to notification requirements and will be on the sex offenders register for an indefinite period. Ms Duong referred the Tribunal to paragraphs 154 and 156 of the SG:

'154. The tribunal should be aware that any conviction relating to child sex abuse materials will lead to registration as a sex offender and possible inclusion on the Children's Barred List by the Disclosure and Barring Service under the Safeguarding Vulnerable Groups Act 2006 (as amended). The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. The tribunal will therefore need to make sure that, in cases where it imposes a period of suspension or conditions, the case is reviewed before the end of this period to consider whether a further period is appropriate.'

156. The tribunal should also consider whether doctors registered as sex offenders should be required to undergo assessment (eg by a clinical psychologist) to evaluate the potential risk they pose to patients before they may be permitted to resume any form of practice.'

14. Ms Duong stated that if the Tribunal determine that erasure is appropriate, then an assessment may be a relevant consideration for the doctor if he wishes to apply to restore in the future.

15. Ms Duong referred the Tribunal to paragraphs 149 and 150 of the SG regarding sexual misconduct:

'148. More serious action, such as erasure, is likely to be appropriate where a doctor has abused their professional position and their conduct involves predatory behaviour or a vulnerable patient, or constitutes a criminal offence.'

149. This encompasses a wide range of conduct from criminal convictions for sexual assault...

150. Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.'

16. Ms Duong submitted that Dr Ajewole's sexual misconduct seriously undermines public trust in the profession, and this is relevant to Dr Ajewole's case. She further submitted that a period of suspension would be insufficient to mark the gravity of the misconduct in this case and due to the serious nature of the offences erasure is appropriate. She also submitted that a sanction of erasure will ensure maintenance of public confidence in the profession and

uphold proper standards and would be both proportionate and appropriate to ensure public confidence is not undermined.

The Tribunal's Determination on Sanction

17. The decision as to the appropriate sanction to impose, if any, in this case is a matter for the Tribunal exercising its own judgement. In determining the appropriate action in this case, the Tribunal has given careful consideration to all the evidence adduced, together with the submissions on behalf of the GMC.

18. In reaching its decision, the Tribunal has borne in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, even though a sanction may have a punitive effect on the doctor.

19. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Ajewole's interests with the public interest. The Tribunal has borne in mind the over-arching objective: to protect and promote the health, safety and wellbeing of the public, to promote and maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for the members of the profession.

Aggravating Factors

20. The Tribunal considered the following to be aggravating factors:

- Dr Ajewole's conviction does not relate to a single, isolated, event
- Dr Ajewole has been convicted of multiple serious sexual offences
- The victim suffered violence at the hands of Dr Ajewole
- The period of time over which the sexual offences occurred
- Dr Ajewole was sentenced to register under section 92 of the Sexual Offences Act 2003 indefinitely
- The absence of evidence of any meaningful insight, particularly into the impact of his offences on the victim
- The absence of evidence of remediation

Mitigating Factors

21. The Tribunal considered the following to be mitigating factors:

- Dr Ajewole entered a guilty plea during the criminal proceedings and has not offered any excuse for his actions in the regulatory proceedings
- HHJ Pini QC's sentencing remarks record that Dr Ajewole was "*very remorseful*"
- Dr Ajewole has offered an apology to the GMC for bringing the medical profession into disrepute
- There have been no similar fitness to practise proceedings against Dr Ajewole

- Dr Ajewole has engaged with the GMC in relation to the regulatory proceedings

22. The Tribunal was addressed by Ms Duong in relation to XXX. She submitted that this may be a mitigating factor. The Tribunal does not accept this submission. The Tribunal notes that reference is made to XXX in the sentencing remarks of HHJ Pini QC. However, there was no XXX evidence before the Tribunal indicating that Dr Ajewole was XXX at the time the offences were committed. The Tribunal notes that he was deemed fit to stand trial and was sentenced by the criminal courts. Accordingly, on the available evidence, the Tribunal does not consider that there were any XXX that give rise to any mitigation.

23. However, even if the Tribunal is wrong in its assessment of XXX at the time of the offences, it does not consider that this would alter the Tribunal's ultimate decision. The reality is that Dr Ajewole has been convicted of extremely serious offences. He was fit to stand trial. He has been convicted of those offences and this Tribunal is not entitled to seek to look behind that decision. Even giving full weight to all of the mitigating factors, XXX, the Tribunal would still have reached the same conclusion in relation to sanction. For the reasons set out below, the Tribunal considers that the serious nature of the offending, and associated violence, means that on public interest grounds erasure is the only proportionate sanction in this case.

No Action

24. The Tribunal first considered whether to conclude the case by taking no action against Dr Ajewole's registration. However, it determined that there are no exceptional circumstances in this case which might justify it taking no action. The Tribunal determined that in view of the serious nature of Dr Ajewole's sexual offences, involving two counts of rape and one count of sexual assault, it would be neither sufficient nor proportionate to conclude this case by taking no action.

Conditions

25. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Ajewole's registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

26. The Tribunal is of the opinion that a period of conditional registration would not adequately reflect the serious nature of Dr Ajewole's convictions and misconduct. Given the nature of the sexual offences, and the associated violence, conditions could not be devised that would satisfy the public interest and maintain public confidence in the medical profession. Dr Ajewole had not worked for some period of time before the offences were committed. He has not worked as a doctor since. The Tribunal has, therefore, determined that it would not be sufficient or appropriate to direct the imposition of conditions on Dr Ajewole's registration.

Suspension

27. The Tribunal then went on to consider whether suspending Dr Ajewole’s registration would be appropriate and proportionate. The Tribunal acknowledged that suspension has a deterrent effect and can be used as a signal to the doctor, the profession, and to the public about what is regarded as behaviour unbecoming a registered doctor.

28. The Tribunal considered paragraph 92 of the SG which provides that:

‘92. Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).’

29. Dr Ajewole has been convicted of extremely serious sexual offences. This is reflected in the sentence of nine and a half years’ imprisonment. As the Tribunal identified above, there are a number of aggravating factors in this case. There were multiple sexual offences involving violence. The victim described Dr Ajewole as *“...acting like a wild animal, biting on her breasts as a punishment.”* During one of the rapes, Dr Ajewole threatened to cut the victim’s genitals. HHJ Pini QC records that the victim thought she was going to die. HHJ Pini QC recorded that the victim was *“deeply traumatised”*.

30. The Tribunal notes that Dr Ajewole has demonstrated limited insight into the offences. He has apologised to the GMC. HHJ Pini QC noted that he had shown remorse. However, there is no evidence of any insight on Dr Ajewole’s part in relation to the impact his offences have had on the victim. The Tribunal notes that Dr Ajewole provided no evidence of any remediation.

31. The Tribunal determined that Dr Ajewole’s convictions for sexual offences brought the medical profession into disrepute. It also found that Dr Ajewole’s actions breached a number of the fundamental tenets of the profession as set out in GMP. His conduct fell seriously below the standards expected of a registered medical practitioner.

32. The Tribunal bore in mind the serious nature of Dr Ajewole’s convictions and its impact on the public interest including public confidence in the medical profession. The Tribunal determined that the promotion and maintenance of public confidence in the medical profession and the need to promote and maintain proper standards of conduct for the members of the profession would not be satisfied by a period of suspension. The Tribunal ultimately concluded that the conviction and misconduct outlined above are so serious that they are fundamentally incompatible with continued registration.

33. The Tribunal is of the view that the public interest requires that it be made clear that Dr Ajewole’s behaviour, as detailed previously, is unacceptable and deplorable in a member

of the medical profession. Therefore, it has determined that, in the particular circumstances of this case, it would not be sufficient nor proportionate to suspend Dr Ajewole's registration.

Erasure

34. The Tribunal noted paragraph 56d of the SG:

'Conduct in a doctor's personal life

56. Tribunals are also likely to take more serious action where certain conduct arises in a doctor's personal life, such as (this list is not exhaustive):

d. misconduct involving violence or offences of a sexual ...'

35. The Tribunal considered paragraph 109 of the SG:

'109. Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

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

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

c...

d. Abuse of position/trust (see Good medical practice, paragraph 65: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession').

e...

f. Offences of a sexual nature, including involvement in child sex abuse materials (see further guidance below at paragraphs 151 - 159).

g. Offences involving violence...'

36. The Tribunal considered that Dr Ajewole's offending behaviour was clearly a particularly serious departure from the principles set out in GMP. Dr Ajewole failed to ensure that his conduct justified the public's trust in the profession. Dr Ajewole's offences were of a sexual nature and involved violence that goes well beyond that inherent in the index offence. The Tribunal determined that Dr Ajewole's sexual offences, which led to his conviction, are fundamentally incompatible with continued registration as a doctor.

37. In the light of all the evidence presented to it, the Tribunal is satisfied that erasure is the only proportionate sanction in his case. Accordingly, the Tribunal has determined to direct that Dr Ajewole's name be erased from the Medical Register.

38. Unless Dr Ajewole exercises his right of appeal, his name will be erased from the Medical Register 28 days from the date on which written notice of this decision is deemed to have been served upon him. A note explaining his right of appeal will be sent to him.

Determination on Immediate Order - 17/02/2021

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

Submissions

2. On behalf of the GMC, Ms Duong submitted that an immediate order of suspension is in the public interest in order to protect public confidence in the medical profession. She referred the Tribunal to paragraphs 172-178 in the SG in relation to immediate orders. Ms Duong acknowledged that there are no patient safety concerns in this case.

The Tribunal's Determination

3. Having considered the submissions, and in the light of all the circumstances of the case, in particular, the seriousness of the multiple sexual offences that led to Dr Ajewole's convictions, the Tribunal is satisfied that it is necessary in the public interest for his registration to be suspended forthwith. Dr Ajewole's Interim Order of suspension is hereby revoked.

4. This means that Dr Ajewole's registration will be suspended from when notification is deemed to have been served. The substantive direction, as already announced, will take effect 28 days from when written notice of this determination has been served upon Dr Ajewole, 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.

5. That concludes this case.

Confirmed

Date 17 February 2021

Mr John MacGregor QC, Chair

ANNEX A – 15/02/2021

Application under Rule 40 – Service and proceeding in absence

Service

1. Dr Ajewole is neither present nor represented today.
2. The Tribunal has considered whether notice of this hearing has been properly served upon Dr Ajewole 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). In so doing, the Tribunal has taken into account all the information placed before it, together with Ms Duong’s submissions on behalf of the General Medical Council (GMC).
3. The Tribunal has seen correspondence between the GMC and Her Majesty’s Prison Service which confirms that Dr Ajewole has been detained in XXX since on or around May 2020. The Tribunal has seen the GMC Notice of Allegation (NOA) letter dated 4 January 2021 which was sent by recorded deliver to XXX where Dr Ajewole is currently incarcerated. It has also seen an email dated 7 January 2021 from Ms D, Governor’s Management Coordinator, XXX confirming that the NOA letter was received and given to Dr Ajewole.
4. The Tribunal has also seen the MPTS Notice of Hearing letter dated 5 January 2021 which was sent by recorded delivery to Dr Ajewole at XXX. It has also considered the Royal Mail track and trace receipt signed for on 7 January 2021.
5. The Tribunal noted that Dr Ajewole sent a letter to the GMC, dated 10 January 2021, in which he confirmed that he is aware that a hearing would take place between 15 and 17 February 2021. He stated that he would not be attending and would not be represented.
6. In the circumstances, the Tribunal is satisfied that the GMC and MPTS has made all reasonable efforts to serve notice of the hearing and that it has been properly served, in accordance with Rules 15 and 40 of the GMC (Fitness to Practise) Rules 2004.

Application on Proceeding in Absence

7. The Tribunal has already determined that service is effective and as such is satisfied that all reasonable efforts have been made to serve notice of this hearing on Dr Ajewole. The Tribunal then considered, in accordance with Rule 31 of the Rules, whether to proceed with the case in Dr Ajewole’s absence.
8. The Tribunal has borne in mind that the discretion to proceed in the absence of the doctor should be exercised with utmost care and caution and with regard to the overall fairness of the proceedings.

9. The Tribunal had regard to the guidance provided in GMC v Adeogba 2016 EWCA Civ 162. It noted in particular the following relevant considerations:

- The nature and circumstances of the doctor’s behaviour in absenting himself.
- In particular, whether the behaviour was voluntary and therefore that the doctor waived the right to be present;
- Whether an adjournment would result in the doctor attending on a subsequent occasion;
- Whether the doctor, although absent, wished to be represented, or whether he had waived his right to be represented.

10. The Tribunal noted that in the letter dated 10 January 2021, Dr Ajewole confirmed that he is aware of today’s hearing. Dr Ajewole confirmed that he will not be attending the hearing and will not be represented. He also confirmed receipt of the GMC bundle and stated that he had no further documents to adduce and that he had no witnesses. Dr Ajewole did not request a postponement in his letter.

11. The Tribunal recognises that there will be a degree of disadvantage to Dr Ajewole by neither being present nor being represented at the hearing. However, on the basis of the information provided, the Tribunal is satisfied that Dr Ajewole is aware of today’s hearing and is aware that the hearing can proceed in his absence. He has stated that he does not wish to attend and has not arranged representation. Dr Ajewole has not requested an adjournment. The Tribunal considers that were it to adjourn today, it is very unlikely that Dr Ajewole would attend or arrange representation for a future hearing. The Tribunal was satisfied that the issues raised regarding Dr Ajewole’s conviction are very serious and concluded that it is in the public interest that the hearing proceeds today.

12. Therefore, in accordance with Rule 31, the Tribunal has determined that in the particular circumstances of this case it is fair and reasonable to proceed in Dr Ajewole’s absence.

ANNEX B – 15/02/2021

1. On behalf of the GMC, Ms Duong made a preliminary application to the Tribunal, pursuant to Rule 41 of the General Medical Council (Fitness to Practise) Rules Order of Council 2004 (the Rules). Ms Duong applied to exclude the public from those parts of the proceedings where the facts of the case may lead to the identity of the victim XXX. She submitted that the victim’s right to anonymity outweighs the public interest in the entire case proceeding in public.

2. Ms Duong also made an application under Rule 41 that matters relating to XXX should be heard in private.

3. The Tribunal considered Ms Duong’s application regarding the victim and noted that hearings should be heard in public wherever possible. That accords with the principle of open justice. Nevertheless, in order to avoid the possibility of the victim being identified, the Tribunal considered that the needs of the victim override the general public interest in the entire case being conducted in the open. Therefore, the Tribunal determined that the hearing should be partly held in private. Where the victim may be identified, it is in the interests of justice that those parts of proceedings be held in private.

4. The Tribunal determined that any matters relating to XXX should also be heard in private. XXX. The Tribunal balanced the principle of open justice against the private interests of the doctor. The Tribunal concluded that it is proportionate for XXX to be considered in private session.

5. Accordingly, the Tribunal determined to grant Ms Duong’s applications under Rule 41 in order that part of the proceedings can take place in private.

ANNEX C – 15/02/2021

Application under Rule 17 (6)

1. Ms Duong made an application to amend Paragraph 4b of the Allegation, as follows:

‘4. You failed to notify the GMC without delay that you had been:

b. convicted of the criminal offences detailed in ~~paragraph 4~~ paragraph 2’

2. Ms Duong explained that due to a typographical error, paragraph 4b ought to be amended to refer to paragraph 2. She told the Tribunal that the GMC sent Dr Ajewole a letter dated 6 January 2021 setting out the proposed amendment but has not received a response. Ms Duong submitted that as this is purely a typographical error there would be no injustice to Dr Ajewole if the amendment was granted.

The Tribunal’s Decision

3. The Tribunal noted that on 20 August 2019, at Lincoln Crown Court, Dr Ajewole was convicted of criminal offences and sentenced on 2 September 2019 to 114 months imprisonment. The Tribunal noted Dr Ajewole has been provided with details of the original Allegation. He has also been informed, on 6 January 2020, that the GMC would seek to amend the Allegation at the start of the hearing. The application to amend by Ms Duong is in the same terms as that set out in the letter to Dr Ajewole.

4. The Tribunal was satisfied from the available documentation that Dr Ajewole was aware in 2020 of the GMC’s Allegation against him. He addresses the substance of the Allegation in letters to the GMC dated 4 May 2020 and 10 January 2021. The Tribunal notes

that the application to amend paragraph 4b of the Allegation was due to a typographical error. There is no change to the substance of the Allegation against Dr Ajewole. He has been provided with advanced notice of the proposed amendment to the Allegation and has raised no objection. The Tribunal was satisfied that there would be no injustice or material prejudice to Dr Ajewole in granting the application to amend. Accordingly, the Tribunal determined to grant the application and allowed the Allegation to be amended as set out above.