

PUBLIC RECORD

The remittal Tribunal's decision on sanction is set out below.

Please also see the record of determinations from Dr Ray's hearing which concluded on 12/07/24 and which was successfully appealed by the PSA.

That record of determinations can be found [here](#).

Date: 07/03/2025

Doctor: Dr Kausik RAY
GMC reference number: 6043969
Primary medical qualification: MB BS 1994 Calcutta

Type of case

Review - Conviction
(Remittal)

Summary of outcome

Suspension, 12 months
Review hearing directed
Immediate order imposed

Tribunal:

| | |
|------------------------------|------------------------------|
| Legally Qualified Chair: | Mr Stephen Chappell |
| Registrant Tribunal Members: | Dr Jill Belch, Dr Neil Smart |
| Tribunal Clerk: | Mrs Jennifer Coakley |

Attendance and Representation:

| | |
|---------------------|------------------------------|
| Doctor: | Not present, not represented |
| GMC Representative: | Ms Fiona McNeill, Counsel |

Attendance of Press / Public

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

Overarching Objective

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

Determination on Sanction - 07/03/2025

Background

2023 hearing

1. Dr Ray's case was first considered by a Medical Practitioners Tribunal (MPT) in June 2023 ('the 2023 Tribunal'). That Tribunal found proved that, on 26 May 2022, at Brighton Magistrates' Court, Dr Ray was convicted of sexual assault of a female aged 16 or over, contrary to section 3 of the Sexual Offences Act 2003. On 29 June 2022, at Lewes Crown Court, Dr Ray was sentenced and made subject to a community order requiring him to undertake 100 hours of unpaid work, a requirement to register with the police for five years and was subject to a restraining order in respect to Ms A, a colleague of Dr Ray's, for a period of two years.
2. At the time of the events that led to Dr Ray's conviction he was practising as a Registrar within the Digestive Diseases department at Royal Sussex County Hospital ('the Trust'). The events that led to Dr Ray's conviction occurred in a consultation room on 25 January 2021 when he was working at the Trust. Ms A entered the room and offered Dr Ray a cup of tea. When she returned with the cup of tea, she placed it on the desk where Dr Ray was working. At this point, Dr Ray reached his hand towards Ms A, clasped her right breast, squeezed it gently and manoeuvred his hand in a circular motion, pushing her right breast up and down, for about a minute. Ms A had not consented to this; she was shocked and backed away. Dr Ray then asked Ms A to close the door to the consultation room, but she refused. Ms A left the room and shortly thereafter reported the incident to a colleague. Approximately 30-40 minutes later, Dr Ray approached Ms A and tried to apologise to her for his actions.

3. The Trust carried out an investigation, at which Dr Ray admitted to inappropriately touching Ms A without her consent. Following a disciplinary meeting, Dr Ray was dismissed on 18 March 2021. Dr Ray unsuccessfully appealed his dismissal.

4. The initial concerns were raised with the GMC by the Trust and on 15 April 2021 the GMC opened their investigation into the matter. This was followed by a police investigation on 18 November 2021 which led to Dr Ray's conviction. Dr Ray informed the GMC of his conviction on 27 May 2022 and his sentence on 29 June 2022.

5. During the GMC's investigation, Dr Ray worked as a Consultant General Surgeon at Belford Hospital. This latter employment terminated on 7 October 2022. Dr Ray returned to India on 8 November 2022.

6. The 2023 Tribunal considered that Dr Ray's fitness to practise was impaired by reason of his conviction and determined to suspend his registration for a period of 12 months in order to send a message to the medical profession and to the wider public that a conviction for a sexual offence is serious and unacceptable.

2024 hearing

7. Dr Ray's case was reviewed by a differently constituted review MPT on 12 July 2024 ('the 2024 Tribunal'). That Tribunal determined that Dr Ray's fitness to practise was no longer impaired ('the Decision') and decided to allow the suspension on his registration to expire.

8. The Professional Standards Authority (PSA) appealed the 2024 Tribunal's Decision on 16 September 2024, pursuant to Section 29 of the National Health Service Reform and Health Care Professions Act 2002 (as amended), on the basis that the 2024 Tribunal erred in its application of the Sanctions Guidance ('the SG') and consequently was wrong to conclude that Dr Ray's fitness to practise was not impaired, and it was wrong not to direct that, as from the expiry of the suspension, Dr Ray's registration be subject to requirements, pursuant to Section 35D(5)(c) of the Medical Act 1983 (Ground 1). Alternatively, the Decision was unjust because of a serious procedural or other irregularity in that the Tribunal failed to give adequate reasons for its departure from the SG (Ground 2).

9. On 28 November 2024, the High Court ordered that the Decision of the 2024 Tribunal be quashed and substituted with a finding that Dr Ray's fitness to practise is currently impaired. It ordered that the matter be remitted to a differently constituted MPT of the

MPTS for consideration as to sanction as soon as reasonably practicable. It ordered that the GMC place before the remittal Tribunal the following:

- a. A copy of the Decision of the 2024 Tribunal with paragraphs 21 and 24-36 redacted;
- b. A copy of the consent order and accompanying schedules;
- c. Any other evidence which the GMC or Dr Ray wishes to place before the Tribunal, subject to the requirements of fairness and relevance.

10. It also ordered that the remittal Tribunal is to consider the SG and in particular paragraphs 151-159.

11. It stated that the 2024 Tribunal's Decision is not sufficient for the protection of the public.

12. In relation to Ground 1 of the appeal, the High Court deemed that paragraphs 151-159 of the SG were relevant to the Decision, as the 2024 Tribunal had noted, Dr Ray was under '*a requirement to register with the police for five years*'. It stated that the SG provides a steer and when that steer, in particular paragraph 154 ('*no doctor registered as a sex offender should have unrestricted registration*'), is properly applied to the facts of the case as found by the Tribunal, the only finding reasonably open on impairment was that Dr Ray's fitness to practise is impaired and the least serious sanction reasonably open to the Tribunal under Section 35D(5) of the 1983 Act was to direct that, as from the expiry of the suspension, Dr Ray's registration be subject to requirements. The High Court found that the 2024 Tribunal misdirected itself by failing to have regard to paragraphs 151-159 of the SG and, as a consequence of that misdirection, erred by not making a finding of impaired fitness to practise with a minimum sanction of Dr Ray's registration being subject to requirements.

13. In relation to Ground 2 of the appeal, the High Court stated that, when a Tribunal decides, as in an appropriate case it may, to depart from the SG's steer, it has to give clear and case-specific reasons for doing so. Paragraphs 151-159 of the SG make plain that no doctor who is subject to the Notification Requirements, such as Dr Ray, should have unrestricted registration. The 2024 Tribunal gave no reasons for departing from the SG and, due to the absence of such reasons, the High Court could not be satisfied that the Decision of the 2024 Tribunal is just.

Today's Hearing

14. This differently constituted remittal Tribunal now has to decide in accordance with the General Medical Council (Fitness to Practise) Rules 2004, as amended ('the Rules'), what action, if any, it should take with regard to Dr Ray's registration.

The Outcome of Applications Made

15. The Tribunal accepted the General Medical Council (GMC)'s submissions, made pursuant to Rule 40 of the Rules, that notice of this hearing had properly been served on Dr Ray, and granted its application, made pursuant to Rule 31 of the Rules, that this hearing should proceed in his absence. The Tribunal's full decision is included at Annex A.

The Evidence

16. This Tribunal took into account all of the evidence provided, including the determinations of the 2023 Tribunal, redacted determinations of the 2024 Tribunal and the High Court's judgment in relation to the PSA's appeal. It also had regard to documents provided by Dr Ray such as CPD certificates, written reflections on courses undertaken and his recent email containing a statement for this Tribunal, dated 24 February 2025 (see summary below). It also took note of the letter from Dr B, Sanjiban Hospital and Medical College, Fuleshwar, India, dated 2 May 2024 and the email from Mr C, Criminal Justice Social Worker, Fort William, Scotland, dated 21 December 2023.

17. The Tribunal also had regard to documentation relating to notification requirements and whether Dr Ray's name remains on the sex offenders' register. Dr Ray emailed the GMC on 27 February 2025 stating that *'I ... wish to mention one point that was told to me during early discharge from the Sheriff's court at Fort William. According to Scottish rule, once discharged means the offender's name will be erased from the SOR. I enquired the incharge [sic] police officer about it and he confirmed it.'*

18. Dr Ray forwarded an email to the GMC from DC E, Sex Offender Policing Unit, Highlands and Islands Division, North Command Area, Police Service of Scotland to Dr Ray, sent on 28 October 2024. DC E stated:

'you were removed from the SOR.

You will still have this conviction on UK databases, this will show for enhanced history checks.

If applying for a job you will likely have to disclose your criminal history on application as if they do checks this will show up.

But you are not managed and not on the register as all was terminated early.'

19. In an email from DC E to the GMC on 1 March 2025, he stated:

'Please also see the documentation I attach which confirms Mr Rays court discharge on 08.08.2023.

This was an early discharge in respect of the time he was sentenced to be on the Register and was subsequently clarified by Police and confirmed that all orders were ceased in their entirety on stated date.

This immediately removed him from being subject of Sex Offender Notification Requirements and all management by agencies.

I will identify that Mr Ray was fully compliant and forthcoming in all domains.'

20. In a document from Fort William Sheriff Court, dated 8 August 2023, it is stated that the court *'Discharged the Community Payback Order and the Sexual Offenders Order forthwith.'*

21. In an email from Mr D, Information Governance & Correspondence Manager, Information Governance & Correspondence Team, Scottish Courts & Tribunal Service, dated 5 March 2025, Mr D states:

'As this was a summary matter then there would be no formal record of the Sheriff's rationale for their decision to revoke the order. That being said, based on the information you have provided, it would appear that the Local Authority Social Work Department reviewing the order may have applied to have the order revoked and you may be best placed contacting them to ascertain why they took that action.'

22. The Tribunal had regard to a telephone note of a conversation between the GMC and DC E on 5 March 2025. DC E said that the National Advisory Unit challenged the Sheriff Court Order of 8 August 2023 asking why Dr Ray had been discharged from the order and about the five year notification requirement, querying that surely he shouldn't be discharged but the Court responded to say that Dr Ray could be discharged.

23. The Tribunal also noted a letter from Mr C, Criminal Justice Services, Fort William Sheriff Court, dated 3 August 2023, regarding an application for the early termination of Dr Ray's CPO dated 10 July 2023. It was stated that *'Dr Ray's period of registration is not directly linked to the length of his CPO, as is usually the case with community based disposals in*

Scotland. Whereas his CPO was of 2 years duration his registration requirements were for 5 years.'

24. The Tribunal later received the application that Mr C made to the Court on 10 July 2023 and admitted this into the evidence. This letter showed that monitoring as part of the community order had been completed, Dr Ray had attended as required on a number of occasions and it was felt by the social worker that he had remediated well.

Submissions on Sanction

25. The Tribunal had regard to the written and oral submissions of Ms McNeill, on behalf of the GMC, and the written submissions of Dr Ray.

26. On behalf of the GMC, Ms McNeill submitted that this is a case involving a sexual assault on a colleague which is serious behaviour not consistent with promoting and maintaining the proper professional standards and conduct expected of Dr Ray. She submitted that Dr Ray remains subject to registration on the sex offenders' register until 29 June 2027. In terms of the enquiries made in relation to the potential early termination of Dr Ray's registration requirement, Ms McNeill submitted that the Sheriff Court has acted beyond their remit and when an English Court imposes a community order there is an automatic requirement by legislation for the offender to be subject to notification requirements for a period of five years. She submitted that there is no discretion in relation to that, and an error has been made by the Sheriff Court.

27. Ms McNeill drew the Tribunal's attention to paragraph 150 of the SG which states '*Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position 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.*' She also highlighted the direction of the High Court that the Tribunal should have regard to paragraphs 151-159 of the SG. In addition, Ms McNeill submitted that the Tribunal should have regard to paragraphs 91-93, 97(a), (f) and (g) of the SG.

28. Ms McNeill submitted that the aggravating factors in this case are the serious nature of the offence, that Dr Ray is on the sex offenders' register for a period of five years, the conduct breaches a number of principles of Good Medical Practice, it occurred in the workplace against a junior colleague (there was therefore a power imbalance between Dr Ray and Ms A and Dr Ray has abused his position of trust), and the impact of the offence on Ms A. Ms McNeill submitted that the mitigating factors which may assist the Tribunal are Dr Ray's

level of insight, that he has apologised for the conduct from an early stage, he made full and frank admissions to the Court, he has demonstrated remorse, it was an isolated incident in the context of a long and otherwise unblemished career, there was no patient harm, Dr Ray has provided reflective entries following attendance at training sessions targeting ethics and probity, a testimonial has been received from Dr Ray's current non-UK employer confirming that there are no concerns, correspondence from the Criminal Justice Services confirms that at the halfway point of the doctor's community order the service made an application to Court to seek an early discharge of the order and on 8 August 2023 the order was discharged, there is evidence of CPD and Dr Ray has undertaken and demonstrated remediation.

29. Ms McNeill submitted that it would be inappropriate to take no action. She submitted that this is not an exceptional case and the doctor's fitness to practise remains impaired; the conviction is a serious one and it would not be sufficient or in the public interest to take no action.

30. Ms McNeill submitted that conditions would be very difficult to implement and would not be workable. She submitted that it would be difficult to limit the doctor's conduct with colleagues in the circumstances of his work. Moreover, conditions would not be sufficient to recognise the seriousness of the doctor's behaviour and would be inconsistent with upholding public confidence in the medical profession or proper professional standards.

31. Ms McNeill submitted that suspension of the doctor's registration would be proportionate and sufficient to satisfy the overarching objective. She submitted that suspension would have a deterrent effect and would have the result of sending out a signal to the doctor, the profession and the wider public about what behaviour is expected of a doctor. She submitted that suspension would also have due regard to paragraphs 151-159 of the SG. Ms McNeill submitted that the conduct on this case may fall short of being fundamentally incompatible with registration but it is nevertheless serious, deserving of a suitably proportionate sanction. She submitted that suspension would be an appropriate response to this serious departure from Good Medical Practice, and that a sanction lower than suspension would not adequately reflect the serious nature of the departure. She submitted that such a sanction would reflect Dr Ray's acknowledgment of fault, remorse and the remediation that has been undertaken as well as the fact that there has been no repetition of the behaviour.

32. Ms McNeill submitted that the length of any suspension would be a matter for the Tribunal's discretion but that the Tribunal should be mindful of the doctor's continuing obligations under the sex offenders' register and paragraphs 151-159 of the SG.

33. Ms McNeill submitted that the Tribunal may consider that the conduct in this case, whilst serious, is not fundamentally incompatible with being a doctor. She submitted that this conduct is not the most serious within the range of conduct which arise in cases of sexual assault and there is evidence of remorse, insight and remediation in this case. She submitted that the Tribunal may consider it disproportionate to order erasure in this case.

34. Dr Ray provided written submissions via email to the GMC on 24 February 2025. He stated that he had '*... learnt a lesson of my life from the mistake I made and I took all the necessary and possible measures to prevent any recurrence of a similar error again. I introspected umpteen number of times, reflected on the incident and did the necessary adjustments on my judgement and behaviour. I wish to bring it again to the kind notice of the honourable chair that I never lied or tried to show excuse when I was questioned about the incident. I remained honest to my conscience, showed remorse, apologised sincerely and complied to all reprimand and punishment from different authorities at different occasions. I don't think I could do anything more for this solitary fault of my career. I am remorseful and ashamed of this unfortunate incident. I can reassure with conviction that the similar mistake will never ever be repeated again. Secondly, I wish to mention that I am a fully qualified surgeon with reasonably good and broad-range of skill set in minimally invasive surgery and endoscopy. It only could be achieved with more than two decades of hard work and training in the surgical field. I am also a member of faculty of surgical trainers of the Royal College of surgeons of Edinburgh that proves my teaching and training skill. In my last job, I fulfilled successfully all my responsibilities as a Locum consultant surgeon for more than a year without a blemish. I am very much passionate about my profession and wish to serve the mankind with best of my abilities. I feel honestly that my service can help the mankind immensely if I am allowed to practice surgery in the UK. Therefore, it is my earnest plea to the honourable Judges for considering my case and allowing me to practice medicine without any bar in the UK.*

The Tribunal's Approach

35. The Tribunal accepted that it must come to the question of sanction afresh and must determine what, if any, sanction to impose. It acknowledged that it must not go behind the High Court's finding of impairment, but that the decision as to sanction is one for this Tribunal's own independent judgement, as of today.

36. The Tribunal reminded itself that it must consider all three limbs of the overarching objective, considering the purpose of sanction as a whole and not give excessive weight to any one limb. The Tribunal must consider not only whether the sanction it imposes is sufficient to protect the public, but it must also explain how any sanction it imposes is an

appropriate and proportionate response to the need to promote and maintain public confidence in the profession as a whole and to promote and maintain proper professional standards and conduct for members of the profession. In reaching its decision, the Tribunal has balanced fairness to Dr Ray with the public interest.

37. The Tribunal took into account the Sanctions Guidance ('the SG'). It considered all relevant parts of the SG and acknowledged the need to ensure that those sections are properly referenced in its decision. The Tribunal accepted that it should have sound reasons for any decision to depart from the SG and should clearly articulate those reasons.

38. The Tribunal accepted that sanctions are not imposed to punish or discipline doctors, but they may have a punitive effect. It follows that any sanction imposed must be one that is necessary to meet the overarching objective. The Tribunal acknowledged that, because orders by the Tribunal are not primarily punitive, it follows that considerations which would ordinarily weigh in mitigation of punishment in a criminal sphere have less effect on the exercise of this jurisdiction where the essential issue is the need to protect the public and to maintain public confidence in the profession.

39. The Tribunal reminded itself of the need to act proportionately, considering each of the available sanctions in turn, starting with the least restrictive and only moving on if that sanction is insufficient to protect the public and the wider public interest.

The Tribunal's Determination

Position in relation to Dr Ray and the sex offenders' register

40. The Tribunal first considered the evidence and submissions in relation to whether Dr Ray's name remains on the sex offenders' register. It had regard to the documents which confirm that Dr Ray's sentence, imposed on 29 June 2022, included his name being added to the sex offenders' register for a period of five years. The Tribunal accepted that a review of such a notification requirement is only possible in cases where the order is indefinite, as set out in the Sexual Offences Act 2003. The National Advisory Unit which looks after the sex offenders register in Scotland advised the GMC in a phone call on 5 March 2025 that they would query whether the Court had the power to discharge the order. In the circumstances, the Tribunal was satisfied that Dr Ray does remain subject to registration requirements of the sex offenders' register and that an error has occurred suggesting that this is not the case.

Aggravating and mitigating factors

41. The Tribunal considered the aggravating and mitigating factors in this case. It considered that the aggravating factors included the serious nature of the offence, which was a sexual assault warranting a criminal conviction. As a result, Dr Ray's name was placed on the sex offenders' register for a period of five years. The offence occurred in the workplace and involved a junior colleague. The impact upon Ms A was profound. Dr Ray had breached a number of principles of Good Medical Practice (2013 edition) ('GMP'), namely:

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

'36 You must treat colleagues fairly and with respect.'

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

42. The Tribunal also considered the mitigating factors. Dr Ray was apologetic from an early stage and has demonstrated remorse for his actions. He has demonstrated a level of insight. In his recent email to the GMC, dated 24 February 2025, he refers to reflection and making necessary adjustments on his judgement and behaviour. Dr Ray has attended relevant CPD courses and provided written reflections. The Tribunal had sight of a testimonial from Dr Ray's current employer in India, dated 2 May 2024, confirming that Dr Ray's *'behaviour and interaction with the colleagues and junior staff remain very satisfactory. There is no concern regarding Dr Kausik Ray.'* There is no evidence of repetition of Dr Ray's behaviour. Further, on the spectrum of sexual offences, the Tribunal accepted that this offence is not the most serious. In addition, Dr Ray has complied with the punitive components of his sentence.

No action

43. The Tribunal first considered whether to conclude Dr Ray's case and take no further action. It had regard to the SG, including paragraph 154 which states:

'154 ... The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. ...'

Taking this into account, and in light of the High Court's decision that Dr Ray's fitness to practise remains impaired by reason of his conviction, the Tribunal considered that it would

not be sufficient, proportionate, nor in the public interest to conclude this case by taking no action. It also considered that there are no exceptional circumstances which would warrant taking no action.

Conditions

44. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Ray's registration. The Tribunal reminded itself that in order for conditions to be imposed, they must be appropriate, proportionate, workable and measurable.

45. The Tribunal bore in mind its earlier conclusion that Dr Ray's name remains on the sex offenders' register. It was of the view that, in such circumstances, conditions, at this time, would not be appropriate in order to satisfy the overarching objective. It considered that conditions would not be sufficient to recognise the seriousness of the offence and subsequent sentence, nor would it promote or maintain public confidence in the medical profession or proper professional standards.

Suspension

46. Having determined that conditions would not be appropriate, the Tribunal considered whether to suspend Dr Ray's registration for a further period. It considered the following paragraphs of the SG were relevant:

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

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

'93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or

incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions (see paragraphs 24–49).'

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

a *A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.*

...

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

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

'151 *Any doctor who has been convicted of, or has received a caution for, a sexual offence listed in Schedule 3 to the Sexual Offences Act 2003 must notify the police (register) under section 80 of the Sexual Offences Act 2003 and may need to undertake a programme of rehabilitation or treatment. Sexual offences include accessing and viewing, or other involvement in, child sex abuse materials, which involves the exploitation or abuse of a child. These offences seriously undermine patients' and the public's trust and confidence in the medical profession and breach a number of principles set out in Good medical practice ...'*

'154 *...The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. ...'*

'158 *Each case should be considered on its merits and decisions should be taken in the light of the particular circumstances relating to the case.'*

'159 *If the tribunal has doubts about whether a doctor who no longer needs to register as a sex offender should resume unrestricted practice, it should not grant the doctor unrestricted registration.'*

47. The Tribunal was of the view that Dr Ray's conviction for a sexual offence, which warranted a sentence including a requirement for his name to be on the sex offenders' register for a period of five years, was serious. It was of the view that an order of suspension would have a deterrent effect, sending a clear signal to Dr Ray and the wider profession that such conduct is not acceptable.

48. The Tribunal considered the aggravating and mitigating factors in this case carefully. It also bore in mind paragraph 150 of the SG which states:

'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.'

The Tribunal was of the view that Dr Ray's conduct, although serious, was not at the higher end of the spectrum of sexual offences, and the mitigating factors weighed somewhat in his favour. As such, the Tribunal concluded that it was not fundamentally incompatible with continued registration, and that erasing Dr Ray's name from the Medical Register would be disproportionate at this stage. The Tribunal noted the evidence before it in relation to CPD, reflections, remorse and remediation. Dr Ray's current employer has provided a positive testimonial and there is no evidence of repetition of the offence.

49. The Tribunal was of the view that suspension would be sufficient and appropriate to uphold all three limbs of the overarching objective.

50. The Tribunal determined that suspending Dr Ray's registration for a period of 12 months would be the appropriate sanction in this case. In reaching its decision, it took note of the mitigating factors including the remediation undertaken, reflections provided and Dr Ray's insight. However, it also noted the seriousness of the offence and the fact that Dr Ray's name remains on the sex offenders' register until 29 June 2027. It considered that a period of suspension of 12 months was required in order to reflect the seriousness of the offence.

51. The Tribunal determined to direct a review of Dr Ray'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 Ray to demonstrate how he has fully remediated and developed full insight. It therefore may assist the reviewing Tribunal if Dr Ray provides:

- Evidence of CPD and how Dr Ray has kept his medical knowledge and skills up-to-date;
- Written reflections on the impact Dr Ray's actions had on Ms A;
- Further testimonial from a senior colleague at his workplace commenting upon Dr Ray's probity and teaching ability.

52. Dr Ray will also be able to provide any other information that he considers will assist.

Determination on Immediate Order - 07/03/2025

1. Having determined that Dr Ray's registration be suspended for a period of 12 months, 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 Fiona McNeill, Counsel, submitted that an order is necessary to protect the public and is otherwise in the public interest. She noted that Dr Ray is currently in India at the moment and an immediate order would not appear to place him in an invidious position.

The Tribunal's Determination

3. In reaching its decision, the Tribunal has exercised its own judgement and has taken account of the principle of proportionality. The Tribunal has borne in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public or otherwise in the public interest or is in the best interests of the practitioner.

4. In reaching its decision, the Tribunal had regard to paragraphs 172 and 173 of the SG which state:

'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of

the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.'

'173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'

5. The Tribunal took into account the seriousness of Dr Ray's criminal conviction and the fact that his name remains on the sex offenders' register. It was of the view that an immediate order is necessary to protect public confidence in the medical profession and is in the wider public interest.

6. This means that Dr Ray'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.

ANNEX A – 07/03/2025

Service

1. Dr Ray was neither present nor represented at the hearing. The Tribunal therefore considered whether to continue the hearing in his absence.
2. The Tribunal firstly considered whether the relevant documents had been served in accordance with Rule 40 of the General Medical Council ('GMC') Fitness to Practise Rules 2004 ('the Rules') and paragraph 8 of the fourth Schedule to the Medical Act.
3. The Tribunal had regard to the proof of service bundle provided by the GMC, as well as the submissions made by Ms Fiona McNeill, Counsel, on behalf of the GMC.
4. On behalf of the GMC, Ms McNeill submitted that the Notice of Hearing had been properly served on Dr Ray in accordance with the Rules.
5. The Tribunal noted that on 17 January 2025 the MPTS sent its Notice of Hearing to Dr Ray via email to his registered email address. It had regard to an email from Dr Ray, dated 17 January 2025, in which states that *'I have received the mail. I wish to reiterate that I shall not be able to attend the hearing virtually and will not be represented legally as I mentioned earlier. ...'*.
6. The Tribunal further noted that on 26 February 2025 the GMC sent an email to Dr Ray's registered email address, enclosing the bundle for today's hearing. The Tribunal had regard to an email from Dr Ray, dated 26 February 2025, in which he states that *'I have received the bundle ...'*.
7. The Tribunal was of the view that, on the basis of Dr Ray's emails, it is clear that he is aware of today's hearing.
8. Having considered all the evidence before it, the Tribunal was satisfied that notice of this review hearing was served on Dr Ray in accordance with Rules 20 and 40 of the Rules 2004 and paragraph 8 of Schedule 4 to the Medical Act 1983.

Proceeding in absence

9. Having been satisfied that notice was properly served upon Dr Ray, the Tribunal then considered whether to proceed with this hearing in his absence, in accordance with Rule 31

of the Rules. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest.

10. Ms McNeill submitted that the Tribunal should proceed in the absence of Dr Ray today. Ms McNeill referenced the case of *R v Jones [2003] 1AC1 [2002] UKHL5* and the overarching objective. The Tribunal had regard to the following factors:

- The nature and circumstances of the doctor’s behaviour in absenting himself;
- 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;
- 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 general public interest.

11. The Tribunal bore in mind Dr Ray’s email, dated 17 January 2025, in which he states that he will not be able to attend the virtual hearing and will not be represented. This reiterated the position he adopted in his email dated 18 December 2024 in which he stated that *‘Due to my XXX and financial constraints, I can not be able to appear or be represented legally at the hearing. I Apologise sincerely for any inconvenience. I shall accept and abide by the decision made by respected MPTS bench.’* The Tribunal noted that Dr Ray has voluntarily absented himself from today’s hearing and has not requested an adjournment

12. The Tribunal balanced Dr Ray’s interests with the public interest in deciding whether to proceed in his absence. In doing so, it had regard to the finding of impaired fitness to practise ordered by the High Court. The Tribunal was of the view that it is in the public interest and in the interests of justice to proceed with this hearing today.

13. Accordingly, the Tribunal determined that it was fair and reasonable to proceed in Dr Ray’s absence.