

PUBLIC RECORD

Dates: 13/06/2023 - 16/06/2023

Medical Practitioner's name: Dr Kausik RAY

GMC reference number: 6043969

Primary medical qualification: MB BS 1994 Calcutta

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

Summary of outcome

Suspension, 12 months.
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Ms Angela Georgiou
Lay Tribunal Member:	Mrs Cindy Mackie
Medical Tribunal Member:	Miss Uttara Gunasekera

Tribunal Clerk:	Mrs Anne Bhatti
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Attendance and Representation:

Medical Practitioner:	Not present and not represented
GMC Representative:	Mr Nicholas Hall, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 15/06/2023

(1) THE FACTS

1. This determination will be handed down in private XXX. However, as this case concerns Dr Ray's conviction, a redacted version will be published at the close of the hearing.

Background

2. Dr Ray qualified in 1994 at R G Kar Medical College, Kolkata, India. Dr Ray completed his postgraduate surgical training at SCB Medical College and passed his MS and DNB in General Surgery in 2000 and 2001 respectively. Dr Ray worked as a registrar in General Paediatric Surgery in Kolkata. He obtained his MRCS in 2004 and FRCS in 2015 both from the Royal College of Surgeons, Edinburgh.
3. At the time of the events Dr Ray was practising as Registrar within the Digestive Diseases department at Royal Sussex County Hospital ('the Trust').
4. The allegation that has led to Dr Ray's hearing can be summarised as follows. On 26 May 2022, at Brighton Magistrates' Court, Dr Ray was convicted of sexual assault on a female aged 16 or over, contrary to section 3 of the Sexual Offences Act 2003. It is also alleged that on 29 June 2022, at Lewes Crown Court, Dr Ray was sentenced. He was made subject to a community order requiring him to undertake 100 hours of unpaid work, a requirement to register with police for five years and was subject to a restraining order in respect to Ms A for a period of two years.
5. The event that gave rise to the conviction occurred on 25 January 2021. On that date, Dr Ray was working at the Trust in a consultation room. At about 17:00, a colleague of Dr Ray, Ms A, entered the room and offered Dr Ray a cup of tea. Dr Ray agreed and a short while later Ms A entered the room again and placed the cup of tea that she had prepared on the desk where Dr Ray was working. At this point Dr Ray reached his hand

towards Ms A, clasped her right breast and 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 where they were located, but she refused. Ms A left the room and shortly thereafter reported the incident to a colleague. Approximately 30 to 40 minutes later, Dr Ray approached Ms A and tried to apologise to her for his actions. The whole incident lasted for about 50 minutes.

6. The Trust carried out an investigation and Dr Ray admitted inappropriately touching Ms A without her consent. A Trust disciplinary meeting took place on 17 March 2021. Dr Ray was dismissed from the Trust on 18 March 2021. Dr Ray appealed his dismissal, but his appeal was dismissed on 14 April 2021.
7. The initial concerns were raised with the GMC by the Trust and on 15 April 2021 the GMC opened their investigation into the matter.
8. This was followed by a police investigation on 18 November 2021 which led to the above conviction.
9. Dr Ray informed the GMC of his conviction on 27 May 2022. Dr Ray updated the GMC with details of his sentence on 29 June 2022.
10. 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.

The Outcome of Applications Made during the Facts Stage

Service and proceeding in absence

11. Dr Ray was not present, nor was he represented, at the hearing. Mr Nicholas Hall, Counsel, on behalf of the GMC, made submissions under Rule 40 of the General Medical Council (Fitness to Practise) Rules 2004, ('the Rules') and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended) inviting the Tribunal to find that Dr Ray had been properly served with notification of this hearing. Mr Hall invited the Tribunal to proceed to hear the case in Dr Ray's absence, in accordance with Rule 31. The Tribunal determined that the notice of the hearing had been served in accordance with the Rules and also acceded to Mr Hall's application to proceed in the absence of Dr Ray, pursuant

to Rule 31. The Tribunal’s decisions and reasons relating to both of these matters are contained in Annex A.

Amendment to Allegation

12. Mr Hall made an application, pursuant to Rule 17(6) of the Rules to amend the Allegation. In particular, Mr Hall sought to correct a typographical error in paragraph one of the Allegation by substituting the word ‘women’ for ‘woman’. Mr Hall indicated that the amendment was sought in an abundance of caution as the word ‘women’ as it appeared within paragraph one of the Allegation had the potential to mislead. He submitted that the amendment could be made without injustice.
13. The Tribunal considered Mr Hall’s submissions and observed that the amendment sought was minor, but important in the sense that it correctly outlined that paragraph one of the Allegation related to one woman rather than many women. The Tribunal considered that the proposed amendment was reasonable and necessary, and could be made without injustice.
14. The Tribunal therefore allowed the amendment.

The Allegation and the Doctor’s Response

15. The Allegation made against Dr Ray is as follows:

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

1. On 26 May 2022, at Brighton Magistrates’ Court, you were convicted of sexual assault on a female, in that on 25 January 2021, you intentionally touched a ~~women~~ woman aged 16 or over and that touching was sexual when she did not consent and you did not reasonably believe that she was consenting contrary to section 3 of the Sexual Offences Act 2003. **Amended under Rule 17(6). Admitted and found proved**
2. On 29 June 2022 at Lewes Crown Court, you were made subject to a:
 - a. community order requiring you to undertake 100 hours of unpaid work by 28 June 2024; **Admitted and found proved**
 - b. requirement to register with police for 5 years; **Admitted and found proved**

- c. restraining order, end date 28 June 2024, not to:
 - i. contact Ms A Directly or indirectly; **Admitted and found proved**
 - ii. attend two separate locations. **Admitted and found proved**

The Admitted Facts

16. Dr Ray had written to the GMC in his email dated 1 May 2023 and his witness statement dated 3 March 2023. Within those documents, Dr Ray admitted the Allegations in their entirety, in accordance with Rule 17(2)(d) the Rules.
17. The Tribunal determined if Dr Ray had not admitted to the Allegations, it would have in any event found the Allegations proved in the absence of admissions. The Tribunal had before it a certificate of conviction dated 22 July 2022. The certificate of conviction identified the doctor named, to be Dr Ray. In accordance with Rule 34(3) of the Rules, the certificate of conviction was taken to be conclusive evidence of the offence committed.
18. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced the paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

Witness Evidence

Dr Ray

19. Dr Ray provided his own witness statement dated 3 March 2023. Dr Ray was not in attendance at the hearing, having returned to India on or around 8 November 2022 to improve XXX and ease the financial pressures he was facing.
20. In his statement, Dr Ray states that on 25 January 2021 at the end of a long day of work, Dr Ray attended the outpatient clinic at the Trust, seeking a quiet place where he could catch up on some administrative work. He approached Ms A and asked her to locate him a suitable room. Prior to the incident Dr Ray had known Ms A in a professional capacity for over two years and he was of the view that they had become quite good friends at work. Ms A found him a room and after a short while of him working, she came into the room and offered him a cup of tea.

21. Ms A later prepared the tea and returned to the room, with the tea, and placed it on the desk. Dr Ray verbally thanked her and stretched his arms out in gratitude to embrace her in a hug. As Dr Ray was sitting down, Ms A stooped forward, and it was at the moment whilst hugging her that Dr Ray inappropriately touched her breast. Dr Ray immediately realised his mistake and, in an effort to apologise and resolve the situation, he asked Ms A to close the door. However, he had since been made aware that Ms A perceived his request to be of a sinister nature and recognised her rationale for this. He stated that he is extremely ashamed of his behaviour and sincerely apologised to Ms A for breaking her trust and causing her emotional trauma.
22. At all times throughout the Trust investigation, he admitted to inappropriately touching Ms A without her consent. Dr Ray was dismissed from the Trust on 18 March 2021.
23. Dr Ray is deeply remorseful for his actions. He is ashamed that his behaviour on this occasion not only broke the law but breached professional boundaries and Ms A's trust. He states that this conduct is in no way reflective of his character or practice as a medical professional for nearly thirty years and he apologises sincerely for falling short of the standards expected of medical professionals as set by the GMC.
24. Dr Ray accepted that his conduct on this occasion breached Good Medical Practice dated 2013 ('GMP') specifically paragraph 65 in that this behaviour does not justify his patients' trust in him or the public's trust in the wider profession, for which he apologises profusely. He is greatly aware of the adverse message this conviction gives to any patients under his care and knows that it will be difficult for him to ever be trusted and respected in the same way he once was.
25. Dr Ray stated that he understands that he made a grave mistake by acting inappropriately towards Ms A and apologises unconditionally to her for the psychological harm that he has caused her. Dr Ray has written an apology letter to Ms A.

Ms A

26. This information has been taken from Ms A's police statement dated 9 November 2021. On 25 January 2021 at the Trust at 16:50, Dr Ray approached Ms A in the XXX and XXX consultation room XXX. Ms A pointed Dr Ray to the room. Ms A was unsure what reason he wanted the room for. At around 17:00, Ms A went to the room and XXX Dr Ray XXX.
27. Ms A went to make the tea and came back to the room. Dr Ray was present and was sitting behind the desk facing the entrance door to the room. Ms A approached the desk

holding the cup of tea. She went round to the side of the desk so that she could place the cup of tea on the table in front of Dr Ray. She said '*here is your tea*' and placed it on the desk. She did not bend down to place the cup of tea on the desk and was about 50 centimetres away from Dr Ray and the top half of her body was furthest away from him.

28. Dr Ray said thank you, in response to her placing the cup of tea on the desk. He then reached his hand upwards and '*clasped her right breast and squeezed it gently and manoeuvred his hand in a circular motion, pushing her right breast up and then down*'. This contact lasted about one minute. Ms A was in shock and stood backwards out of his reach and he let go. She walked backwards away from the desk to leave the room. As she was walking backwards, Dr Ray told her to shut the door, she believed that he asked her to shut the door because he thought that the situation was going to develop. She said, '*I was worried that he was going to do something else to me and touch me more*'. She said she was not shutting the door and then left the room. At approximately 17:10, Ms A arrived at the XXX department and spoke to a colleague about the incident.
29. At approximately 17:30 to 17:40 Dr Ray went to the XXX and went towards Ms A, she stood up and walked in the corridor and Dr Ray followed her. Ms A turned and faced him, Dr Ray apologised and said he should not have done that and hoped it did not ruin their relationship. Ms A stated that at no point did she give Dr Ray permission to touch her breast or any part of her body.

(2) IMPAIRMENT

Evidence

30. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:
- Certificate of Conviction dated 26 May 2022;
 - Pre-sentencing report dated 28 June 2022;
 - Restraining Order and Community Order both dated 29 June 2022;
 - Dr Ray's reflective notes for probation dated 8 June 2022;
 - Crown Sentencing Note undated;
 - The Judge's sentencing remarks undated;
 - Documents from Sussex Police;
 - Dr Ray's Rule 7 response dated 29 September 2022;
 - Outcome letter of Trust Disciplinary Hearing dated 18 March 2021;
 - Apology letter to Ms A dated 15 June 2022;

- Professional Boundaries Course Certificates, various dates and Dr Ray’s reflection on these courses;
- Probity and Ethics Course Certificates, various dates;
- Ethics and Ethical Standards or Doctors course certificate and reflection, dated February 2023;
- Colleague Feedback dated February 2023;
- Testimonials various dates;
- Email from Probation Officer dated 28 September 2022.

Submissions

On behalf of the GMC

31. Mr Hall, Counsel, submitted that Dr Ray’s fitness to practise was impaired. He submitted that production of a certificate of conviction was conclusive evidence of the offence committed and rebuttal of this is limited to Dr Ray being able to demonstrate that he is not the person referred to in the certificate.
32. Mr Hall submitted that Dr Ray had tried to minimise the sexual nature of his conduct and he referred the Tribunal to the case of *Rak-Latos v General Dental Council [2018] EWCH 3503 (Admin)* in which the court held that the General Dental Council’s Professional Conduct Committee had been right to take the conviction at face value and to reject the registrant’s attempts to present an account of events which was inconsistent with that conviction. He submitted that the GMC’s position was that Dr Ray had tried to minimise his actions by indicating that his conduct was not sexual but merely inappropriate and breached professional boundaries. He submitted that the conviction was for a serious sexual offence.
33. Mr Hall submitted that Dr Ray’s criminal conviction represents a significant departure from Good Medical Practice dated 2013 (‘GMP’), particularly paragraphs 1, 36 and 65. He submitted that a well-informed member of the public would find Dr Ray’s actions abhorrent, that his actions would undermine public confidence in the medical profession and have breached fundamental tenets of the profession.
34. On behalf of the GMC, Mr Hall accepted that Dr Ray had demonstrated remorse and had shown some insight into his actions. However, it was of note that within the sentencing remarks of Her Honour Judge Waddicor that, whilst she accepted Dr Ray’s remorse was genuine, she caveated this with reference to the probation report, stating:

'I detect some attempt at ex post facto rationalisation, suggesting that because typically you and this individual, for purely innocent reasons, might greet each other with a hug, you somehow understood that to mean more. I don't accept that on your part. On that day you crossed the boundary. There was no engagement from her, as you accept, because her look when you did assault her sexually was one of shock and horror.'

35. Mr Hall submitted that in the Pre-Sentencing Report dated 28 June 2022, *'Mr Ray stated that the full embracing hugs made him feel less inhibited around her and he did not realise he was breaching full professional boundaries as she consented to full embracing hugs'*. The Judge also observed that Dr Ray had appealed the decision of his employer to dismiss him. This appeal was unsuccessful.
36. Mr Hall submitted that Dr Ray's conviction is serious and violated such fundamental principles of the profession that a finding of impairment of his fitness to practice is necessary to maintain standards of professional conduct and public confidence in the profession.

Relevant Legal Principles

37. 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.
38. The Tribunal bore in mind the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 *Admin*. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired, with limbs b and c being relevant in this case:

'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 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 to breach in the future one of the fundamental tenets of the medical profession; and/or

d. Has in the past and/or is liable in the future to demonstrate that his integrity cannot be relied upon.'

39. The Tribunal bore in mind that whilst it may find Dr Ray has breached the standards set out in GMP, it would not automatically follow that his fitness to practise was impaired. The Tribunal must determine whether Dr Ray's fitness to practise is impaired today, taking into account Dr Ray's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition, as considered in the case of *Cohen v General Medical Council [2008] EWHC 581 (Admin)*.
40. There will, however, be some cases which are of such a gravity or nature that a Tribunal would be entitled to conclude that the practitioner's fitness to practise is impaired regardless of whether the shortcomings had been remedied or were not likely to be repeated. Such cases may include matters of dishonesty, sexual misconduct, convictions for causing death or serious injury or grossly negligent medical treatment. In such cases, a finding of impairment may be required in the public interest, to uphold professional standards and trust in the profession and so discharge the statutory overarching objective.

The Tribunal's Determination on Impairment

Conviction

41. The Tribunal had regard to the following paragraphs of the GMP:

'1 Patients need good doctors. Good doctors make the care of their patients their first concern...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 determined that Dr Ray had not acted within the law. He had been convicted of sexual assault on a female in that he intentionally touched a women aged 16 or over and that touching was sexual when she did not consent, and he did not reasonably believe that she was consenting. Dr Ray pleaded guilty to the offence on 26 May 2022 and was sentenced on 29 June 2022 at Lewes Crown Court. The sentence

included a community order requiring Dr Ray to undertake 100 hours of unpaid work by 28 June 2024; a requirement to register with police for 5 years on the Sexual Offenders Register; a restraining order, end date 28 June 2024, not to contact Ms A directly or indirectly or attend two separate locations. Dr Ray's conviction for a sexual offence, and the circumstances giving rise to it, was considered by the Tribunal to be serious.

43. Dr Ray did not treat his colleague fairly or with respect; he sexually assaulted her. At the time of the incident Dr Ray had been working as a doctor at the Trust and the incident took place at the Trust. The Tribunal was of the view that the public trust in the profession included an expectation that doctors do not sexually assault their work colleagues.

Impairment

44. The Tribunal went on to consider whether, as a result of the conviction, Dr Ray's fitness to practise is impaired.
45. The Tribunal considered Mr Hall's submission that Dr Ray had tried to minimise his actions by indicating that his conduct was not sexual but merely inappropriate and breached professional boundaries.
46. The Tribunal considered Dr Ray's witness statement dated March 2023:

'16. Ms A later returned to the room with the afore-mentioned cup of tea and placed it on the desk. I verbally thanked her and stretched my arms out in gratitude to embrace her in a hug. As I was sitting down, she stooped forward and it was at the moment whilst hugging her that I inappropriately touched her breast.

17. I immediately realised my mistake and in an effort to apologise and resolve the situation I asked Ms A to close the door. However, I have since been made aware that Ms A perceived my request to be of a sinister nature and recognised her rationale for this. I am extremely ashamed of my behaviour on 25 January 2021 and sincerely apologise to Ms A for breaking her trust and causing her emotional trauma.'

47. It bore in mind Ms A's police statement dated 9 November 2021 as set out above.
48. The Tribunal also considered Dr Ray's reflective note prepared for the probation service dated 8 June 2022 which stated:

'As she kindly brought a cup of tea while I was working, I felt thankful. Apart from saying 'thanks', I offered her a hug. as I was sitting on a chair, she stooped forward. That time, I touched her breast and stroked it. It was an unfortunate, impulsive act which I am very ashamed of. As she moved out immediately after, I realized my mistake. A sense of shock, shame, and fear dazed my mind. I can feel the turmoil in her mind at that moment. It was shocking for her as well, as she couldn't believe that I could breach her trust! A sense of humiliation, and helplessness would appear in my mind if I were in her place.'

49. In the Pre-sentencing report dated 28 June 2022, it was suggested that Dr Ray may have been *'attracted to the victim'*.

50. The Tribunal bore in mind the Judge's sentencing remarks:

'The only caveat in that is in the probation report I detect some attempt at ex post facto rationalisation, suggesting that because typically you and this individual, for purely innocent reasons, might greet each other with a hug, you somehow understood that to mean more. I don't accept that on your part. On that day you crossed the boundary. There was no encouragement from her, as you accept, because her look when you did assault her sexually was one of shock and horror.'

51. Dr Ray's Rule 7 response dated 29 September 2022:

30. I completely appreciate that usual interactions with [Ms A] prior to this incident, for example greeting each other with a hug, cannot excuse my behaviour or be seen to have provoked the incident as there was no encouragement from [Ms A]. I understand that I violated the professional boundaries between us as colleagues and unintentionally breached the principles of GMP.

...

32. As stated above, I am deeply regretful and realise that my actions breached professional boundaries and I, once again, apologise for what I did. It is difficult for me to even begin to imagine how upset and hurt [Ms A] must have been as a result of my inappropriate actions, especially as I assume there would have been a level of trust between us due to our previous interactions and familiarity which I subsequently breached. As a result, I am even more ashamed that my actions caused [Ms A] so much stress, for which I apologise to her deeply, and I cannot imagine the lasting impacts of this incident on her.'

52. Dr Ray's witness statement dated 3 March 2022:

'31...am ashamed that my behaviour on this occasion not only broke the law but breached professional boundaries and Ms A's trust.

37 Whilst I appreciate that my apology cannot undo the hurt and anguish I have caused to Ms A, I hope that it offered her some comfort knowing that I had recognised my wrongdoing and accepted responsibility for my actions, and as a consequence was being dealt with by the necessary authorities.'

53. Furthermore it bore in mind the letter of apology Dr Ray had written to Ms A dated 15 June 2022, which predates the sentencing hearing:

'I realized the amount of pain and mistrust my behaviour created in you. I could not reciprocate to your friendly and kind gesture on that day. Instead, I hurt your dignity and disrespect you by misbehaving and violating professional boundary. I am deeply saddened by the unwanted psychological pain and sufferings you had to go through for that act of mine'

54. The Tribunal determined that Dr Ray had shown a degree of consistency in his account from the outset. Dr Ray accepted that Ms A's feelings towards him were not reciprocated and that she had not done anything to encourage him. The Tribunal noted that at no point, within the evidence they had seen, had Dr Ray explicitly denied that his conduct was sexual. He realised the gravity of his conduct and sought to apologise to Ms A within one hour of the incident occurring. Since that time, save for his initial police interview in which he provided '*no comment*', Dr Ray has admitted his behaviour and accepted full responsibility for it.
55. The Tribunal had regard to Mr Hall submissions and the Judge's sentencing remarks but balanced that with the other evidence before it, including Dr Ray's apology letter to Ms A, Dr Ray's Rule 7 response and his detailed witness statement. The Tribunal determined that Dr Ray was not intentionally seeking to minimise his conduct or suggest that his behaviour was not sexual. The Tribunal did not consider that Dr Ray had sought to make excuses for his behaviour. Nor did the Tribunal consider that Dr Ray had sought to present an account of events that was inconsistent with the conviction.
56. The Tribunal accepted that sexual misconduct is difficult to remediate. The Tribunal was however of the view that Dr Ray had completed extensive remediation. It noted the apology letter to Ms A, and Dr Ray's attendance at and completion of relevant training courses. These included but were not limited to a Probity and Ethics Course dated

October 2021, Maintaining Professional Boundaries dated September 2022, Ethics and Ethical Standards for Doctors dated February 2023. Following each course Dr Ray had written extensive reflection on what he had learned from each course. The courses had not been completed at the last minute before this hearing, but had been undertaken throughout the process.

57. The Tribunal considered Dr Ray's level of insight. It noted Mr Hall's submission that Dr Ray had shown limited or no insight into his sexual motivation or the sexual nature of his conduct. It also bore in mind the Judge's Sentencing remarks:

'In addition, there are the attempts that you have made since this incident to address whatever it was that made you act in that way that day. You have undertaken work on respecting boundaries and I accept from...you haven't just done it with an eye to this court and the sentence that you might impose; you did it from day 1.'

58. The Tribunal were of the view that throughout Dr Ray's accounts in relation to the incident: to the Trust; his apology letter to Ms A dated 15 June 2023; his Rule 7 response to the GMC dated 29 September 2022; and in his witness statement dated 3 March 2023. He has reflected on the incident, apologised and shown remorse. The Tribunal noted the extensive level of self-reflection Dr Ray had evidenced was high, and he had considered what he had put Ms A through and the physical and psychological impact of his behaviour on her and her family. The Tribunal considered that the evidence indicated that Dr Ray had self-reflected consistently since the date of the incident.
59. The Tribunal noted that Dr Ray had admitted and apologised for the conduct within one hour of it occurring, initially to Ms A, thereafter to the Trust, to the GMC and latterly to the MPTS via his witness statement. The Tribunal were neutral on Dr Ray stating '*no comment*' during his police interview. The Tribunal considered that Dr Ray had reflected on the requirements of GMP including paragraph 65 of GMP, and had realised the adverse message his conduct gives to patients and to the reputation of the medical profession, how his patients would view him and the psychological harm he had caused Ms A and her family. Dr Ray had also recognised the power difference between Ms A and himself.
60. In addition Dr Ray had recognised the impact of his conduct on his own family.
61. The Tribunal determined that taking into account Dr Ray's extensive remediation, high level of insight and the evaluation within the Pre-Sentence Report, that there was a low

risk of reoffending. In addition, there was evidence from the testimonials received that Dr Ray had a good support network. It concluded that risk of repetition was low.

62. Although Dr Ray had taken numerous steps to try to remediate his actions and shown high levels of insight, the Tribunal was of the view that Dr Ray's sexual assault on his colleague whilst he was in a position of authority at work, was serious and was not consistent with promoting and maintaining the proper professional standards and conduct expected of him. His actions, their impact on Ms A and his subsequent conviction, amounted to serious breaches of the standards set out in GMP, specifically paragraphs 1, 36, 65 as set out above. The Tribunal was therefore satisfied that Dr Ray's fitness to practise is currently impaired by reason of his conviction. The seriousness of the conviction and the violation of fundamental tenets of the profession are such that a finding of impairment is necessary to protect the public, promote and maintain proper professional standards, and to protect public confidence in the medical profession. The Tribunal considered that public confidence in the profession would be seriously undermined were it to make a finding of no impairment.
63. The Tribunal concluded that Dr Ray's fitness to practise is currently impaired.

Determination on Sanction - 16/06/2023

1. Having determined that Dr Ray's fitness to practise is impaired by reason of his 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 reach a decision on sanction.

Submissions

3. On behalf of the GMC, Mr Hall, Counsel submitted that the appropriate sanction was one of erasure from the Medical Register. He submitted that this was required given the seriousness of Dr Ray's conduct and it was required in order to maintain public confidence in the profession and uphold proper professional standards. Mr Hall referred the Tribunal to relevant paragraphs of the Sanctions Guidance dated 16 November 2020 ('SG'), particularly paragraphs 149 to 150, 154 and 107 to 109. He submitted that sexual

misconduct seriously undermined public trust in the profession and it was particularly serious where there was an abuse of the special position of trust a doctor occupies, or where a doctor had been required to register as a sex offender. He submitted that erasure may also be appropriate even when the doctor does not present a risk to patient safety.

4. Mr Hall referred the Tribunal to the case of *Arunachalam v The General Medical Council [2018] EWHC 758 (Admin)* (*'Arunachalam case'*). In particular, Mr Hall referred the Tribunal to paragraph 58 which states in respect of sexual misconduct cases: *'Such cases are inherently serious, such that they may well lead to erasure, even for a first-time offender with a good clinical record. Often, maintaining public confidence in the profession and upholding high standards of behaviour by stamping out unacceptable behaviour of this kind will require erasure in a sexual misconduct case.'*
5. As Dr Ray was not represented at the hearing, Mr Hall referred the Tribunal to what he identified as the mitigating factors in this case: Dr Ray's high level of insight; Dr Ray's previous character and history, in that this incident was uncharacteristic for this Doctor; that this was the only incident in respect of this Doctor, who had secured registration with the GMC in 2005; the lapse of time since the incident, which had taken place in January 2021, although Mr Hall submitted that this may not be considered to be a significant lapse of time; Dr Ray's references and testimonials; and his expression of regret and apology.
6. Mr Hall submitted that the aggravating factors the Tribunal ought to consider in this case were: that this case involved a criminal conviction for an offence of a sexual nature; it took place in a professional setting; there was an imbalance of power between Dr Ray on one hand and the victim on the other who was a XXX. the significant impact of the event on Ms A and in particular the damaging effect on Ms A's mental health.
7. Mr Hall submitted that there were no exceptional circumstances in this case to justify taking no action. He submitted that Conditions would not be workable since they would have to arrange conditions that would limit Dr Ray's ability to have physical contact with his colleagues. In any event, Mr Hall submitted that imposition of Conditions did not recognise the seriousness of the conduct and would not maintain public confidence in the profession.
8. Mr Hall submitted that suspension would not be appropriate in this case because the conduct was so serious that it was fundamentally incompatible with continued

registration. He submitted that this left the Tribunal with Erasure as the only proportionate sanction. He submitted that this was a sexual offence against a colleague involving an imbalance of power. There had been a breach of professional boundaries and a serious departure from good medical practice, therefore, he submitted, erasure was required to reflect the seriousness of the conviction and to protect the reputation of the profession. He reminded the Tribunal that Dr Ray is subject to a five-year notification period which will not expire until 29 June 2027.

The Tribunal's Approach

9. The Tribunal had regard to the submissions made by Mr Hall, but noted that it was not bound to follow them. The decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgment.
10. In reaching its decision the Tribunal took account of the SG and the statutory overarching objectives.
11. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and that sanctions are not imposed to punish doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Ray's interests with the public interest. The public interest includes, amongst other things, the protection of patients, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour.
12. The Tribunal bore in mind the case of *Arunachalam* as set out above in Mr Hall's submission, in particular the following paragraphs of Kerr J's comments:

'58. This was undoubtedly a sexual misconduct case. Such cases are inherently serious, such that they may well lead to erasure, even for a first time offender with a good clinical record. Often, maintaining public confidence in the profession and upholding high standards of behaviour by stamping out unacceptable behaviour of this kind will require erasure in a sexual misconduct case.

61...The days are gone when mainstream discourse was in any way split on the issue of sexual misconduct, particularly in the workplace. The mainstream in our society, reflected in our law, is now that there is virtual zero tolerance of such behaviour.'

13. The Tribunal first sought to identify any aggravating and mitigating factors in Dr Ray's case to arrive at a decision on the appropriate sanction, if any. In the course of assessing

the appropriate and proportionate sanction, the Tribunal evaluated and balanced the aggravating and mitigating factors it has identified.

The Tribunal's Determination on Sanction

Aggravating factors

14. The Tribunal identified the aggravating factors in this case. The underlying offence which Dr Ray was convicted of was serious. It was of a sexual nature and Dr Ray has been placed on the Sexual Offenders Register for five years. Such conduct is deplorable, and has no place in the profession. The Tribunal bore in mind Kerr J's comments in the case of *Arunachalam* as noted above.
15. The Tribunal noted that the conduct occurred in the workplace, and was committed against a junior colleague. There was therefore a power imbalance between Dr Ray and Ms A. Dr Ray had abused his position of trust.
16. The Tribunal also noted the significant and continuing mental health impact the events had had on Ms A. The Tribunal had particular regard to her victim impact statement which was set out in the Prosecution Sentencing Note, which stated: *'Although I know he has not raped me, I feel like he raped me and may as well have raped me. He has made me feel disgusting'*.

Mitigating factors

17. Having identified the aggravating factors in this case, the Tribunal set out to identify any mitigating factors in this case. The Tribunal bore in mind that Dr Ray had shown a high level of insight and had undertaken and shown extensive remediation. He had admitted and apologised for the conduct within one hour of it occurring to Ms A. Dr A maintained his admission; initially to the Trust, then during the criminal proceedings, to the GMC and latterly to the MPTS via his witness statement. The Tribunal noted that Dr Ray had sent Ms A a letter of apology dated 15 June 2022. It further noted that Dr Ray had not attempted to make excuses for his behaviour and he had made a full and complete admission to the allegation. Dr Ray had shown remorse and had, on numerous occasions, expressed his regret to Ms A, to colleagues and to the wider profession. He has also made and evidenced extensive reflective entries following attendance relevant ongoing training session, targeting ethics and probity.

18. The Tribunal noted that this was an isolated episode in an otherwise unblemished career of almost 30 years. Dr Ray is of previous good character. The Tribunal noted the time lapse of some two and half years since the conduct occurred during which time there had been no repetition of offending. The Tribunal however considered that the mitigating effect of the lapse of time was tempered by the doctor's requirement to be on the sex offender's register for a further three years from now.
19. The Tribunal noted that Dr Ray is currently teaching in India. However he had provided the Tribunal with wide and varied testimonials, which set out his previous good character and unblemished history as a clinician both in the UK and in India. The Tribunal noted that Dr Ray had been assessed as being at low risk of offending in the Pre-Sentence Report dated 22 June 2022.
20. The Tribunal balanced the aggravating and mitigating factors identified in this case. Although Dr Ray's conviction was for a sexual offence which is inherently serious, and noting the serious impact of the offence on Ms A, the Tribunal was of the view that the offence was not at the most serious end of the spectrum of sexual offending. Dr Ray's conviction followed a single episode of him touching and caressing Ms A's breast. It was an isolated incident in an otherwise long and unblemished career. The Tribunal noted that Dr Ray was of previous good character. He had made an early admission of his conduct and sought to apologise for it, and had maintained that position throughout. The Tribunal found that Dr A had not attempted to make excuses for his behaviour and had expressed remorse and made genuine apologies.
21. Whilst the Tribunal noted that the offence occurred in the workplace and was directed at a junior colleague, it noted that no patient was harmed or endangered. The Tribunal considered that Dr Ray had a high level of insight and had completed extensive remediation. The Tribunal considered that he had reflected on his conduct and the impact it had on Ms A and her family, his colleagues, his own family, the public and the public's trust in the profession. Having undertaken a careful balancing exercise and having regard to the overarching objective, the Tribunal determined that the mitigating factors identified marginally outweighed the aggravating factors identified.

Consideration of sanction

No action

22. The Tribunal first considered whether to conclude the case by taking no action. The Tribunal considered that taking no action was inappropriate as Dr Ray's fitness to

practice was impaired and there were no exceptional circumstances. The conviction was serious and related to a sexual offence. It would not be sufficient, proportionate, or in the public interest to conclude this case by taking no action.

Conditions

23. The Tribunal next considered whether to impose conditions on Dr Ray's registration. The Tribunal was of the view that workable conditions would be difficult to implement. Further, the Tribunal determined that, given the seriousness of the conviction, conditions would not be sufficient to recognise that seriousness and would not promote or maintain either public confidence in the medical profession or proper professional standards.

Suspension

24. The Tribunal then went on to consider whether imposing a period of suspension on Dr Ray's registration would be proportionate and sufficient to satisfy the overarching objective.
25. The Tribunal considered paragraphs 91, 92, 93, 97 a, f and g and 150 of the SG applied to Dr Ray's case:

'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 (ice 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 breach of Good medical practice, but where the doctor’s misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction

...

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.

...

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. The Tribunal was of the view that Dr Rays’ conviction for a sexual offence is serious. The Tribunal considered that all of these paragraphs of the SG applied in this case. An order of suspension would have a deterrent effect, sending a clear signal to Dr Ray and the wider profession that such conduct is unacceptable. The Tribunal had found serious breaches of GMP, however it bore in mind its assessment above of the aggravating and mitigating factors and concluded that the mitigating factors marginally outweighed the aggravating factors. The Tribunal determined that Dr Ray’s conduct, not being at the upper end of the spectrum of sexual offending, was not fundamentally incompatible with continued registration. The Tribunal had evidence before it of extensive remediation and of a high level of insight, genuine remorse and apology. There had been no evidence of repetition of the conduct and the Tribunal had assessed the risk of repetition as low.
27. The Tribunal bore in mind the following paragraph which indicates that erasure may be appropriate:

‘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.

...

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’).

f Offences of a sexual nature...’

28. The Tribunal had determined that there was no risk to patient safety, and whilst the conviction was of a sexual nature it was not at the top end of the spectrum of sexual offending, nor was of a kind specifically identified within the SG as being fundamentally incompatible with continued registration. There was an abuse of position of trust, however Dr Ray had shown continued genuine remorse and had apologised for his conduct. Dr Ray had completed extensive remediation and shown a high level of insight. It had found serious breaches of GMP but had determined that Dr Ray’s actions were not fundamentally incompatible with continued registration. The Tribunal therefore concluded that an order of erasure would be disproportionate in the circumstances of this particular case, and not necessary to maintain public confidence.
29. The Tribunal concluded that Dr Ray’s conduct was serious, but that suspension could appropriately and sufficiently mark the seriousness of the conviction as well as serving as warning to the wider profession. The Tribunal determined that a period of suspension would be sufficient to uphold all three limbs of the overarching objective and would send a message to the profession and the wider public that such conduct was not acceptable. The Tribunal concluded that in all the circumstances, that although serious, Dr Ray’s conduct was not fundamentally incompatible with continued registration.
30. The Tribunal determined that suspending Dr Ray’s registration for a period of twelve months is necessary. The Tribunal took into account Dr Ray’s insight, remediation and the low risk of repetition however, it considered that a period of less than 12 months would be insufficient to mark the seriousness of the conduct. A period of suspension at

the maximum level of 12 months would send a message to the medical profession and to the wider public that a conviction for a sexual offence is serious and unacceptable, whilst reflecting the seriousness of Dr Ray's conduct.

Review

31. 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, unless an early review is sought. It therefore may assist the reviewing Tribunal if Dr Ray attends the review hearing and provides that Tribunal with:

- Evidence of continued reflection from the date of this hearing;
- Evidence of continuing professional development and how he has kept his medical skills and knowledge up to date;
- Any other relevant evidence he wishes to present to assist the reviewing tribunal.

Determination on Immediate Order - 16/06/2023

1. Having determined to suspend Dr Ray 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, Mr Hall submitted that an immediate order of suspension was necessary in order to protect members of the public and was otherwise in the public interest. He submitted a serious sanction had been imposed of 12 months suspension. Dr Ray is currently on an interim order of conditions one of the requirements is for him to be chaperoned.
3. Mr Hall submitted that there was still a risk to patient safety notwithstanding the offence was in relation to a colleague. He submitted that Dr Ray had known about the hearing for some time and had therefore had time to make the necessary arrangements in light of the sanction that may be imposed. He submitted there was no prejudice to Dr Ray if an immediate order was made as he is in India. However, an immediate order would have the advantage of protecting the public in the event that he returned to the UK to work during the appeal period.

The Tribunal's Determination

4. The Tribunal had careful regard to the submissions made by Mr Hall and to the guidance contained within SG at paragraphs 172, 173 and 178 which state that:

'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.

...

178. Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.'

5. Having considered the submissions, and in light of all the circumstances of the case and in particular having regard to the seriousness of the conviction, the Tribunal determined that it was necessary to impose an immediate order on Dr Ray's registration in order to protect members of the public and on the basis that it was in the public interest.
6. This means that Dr Ray's registration will be suspended from the date on which notice is deemed to have taken place. The substantive direction, as already announced, will take effect 28 days from today 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.
7. The interim order currently imposed on Dr Ray's registration will be revoked when the immediate order takes effect.
8. That concludes the case.

Record of Determinations –
Medical Practitioners Tribunal

ANNEX A – 13/06/2023

Determination on service and proceeding in Dr Ray's absence

1. This determination will be handed down in private due to matters XXX. However, as this case concerns Dr Ray's conviction, a redacted version will be published at the close of the hearing.

Service

2. Dr Ray is neither present nor represented at this Medical Practitioners Tribunal ('MPT'). The Tribunal therefore considered whether notice of this hearing has been properly served in accordance with Rule 40 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 ('the Rules') and paragraph 8 of Schedule 4 to the Medical Act 1983.
3. The Tribunal was provided with a copy of a service bundle. This included at page 3 a screenshot of Dr Ray's registered address and email address. A copy of the GMC's Rule 34(9) Letter and notice of Allegation was sent to Dr Ray by email on 26 April 2023 and a delivery receipt appears at page 12. Dr Ray responded to the email on 1 May 2023 and confirmed that, *'I wish to confirm that I shall not be able to attend the MPT hearing...I wish to reiterate that I shall not be represented at the MPT hearing'*. Dr Ray said the reason he could not attend the hearing was due to XXX reasons and confirmed he could not afford any legal representation.
4. The Tribunal also took into consideration a copy of the MPTS Notice of Hearing letter sent to Dr Ray's email address on 27 and 28 April 2023. A delivery receipt appears at page 22 of the service bundle. In any event, Dr Ray acknowledged safe receipt of the email on 28 April 2023.
5. On 3 May 2023 the GMC sent Dr Ray another email attaching the update final bundle and asked again whether he would be attending the hearing. Dr Ray replied in an email the same day and stated that he would not be attending the hearing.
6. On behalf of GMC, Mr Nicholas Hall, Counsel, submitted that based on the documentary evidence before the Tribunal in the service bundle, service had been effected. Dr Ray had acknowledged safe receipt on 1 May 2023 of the GMC's email of 26 April 2023, which contained the Rule 34(9) letter and the Allegation. Dr Ray also confirmed receipt, on 28 April 2023, of the MPTS Notice of Hearing. Mr Hall submitted that Dr Ray had confirmed

that he would not be attending the hearing due to XXX and that he could not afford legal representation.

7. Mr Hall further submitted that Dr Ray had received the GMC's email dated the 3 May 2023, and replied the same day to confirm that he would not be attending the hearing for reasons of XXX. The GMC sent Dr Ray a subsequent email dated 3 May 2023 and gave him the opportunity to make an application to the MPTS for postponement of the hearing if that would allow him to attend at a later date. Dr Ray did not respond to that email and no application for an adjournment has been received.
8. The Tribunal had regard to the service bundle provided by the GMC, as well as the submissions made by Mr Hall. The Tribunal bore in mind that Dr Ray had acknowledged receipt of the GMC's Rule 34 letter and GMC emails notifying him of the date of the hearing. Dr Ray notified the GMC on two occasions that he would not be attending, in his emails dated on 1 May 2023 and 3 May 2023.
9. In the circumstances, the Tribunal was satisfied that all reasonable steps had been made to serve the notice of this hearing in accordance with Rule 40(1); that service had been effected and proved in accordance with Rule 40(4) and that Dr Ray was aware of the hearing today but had chosen not to attend.

Proceeding in Absence

10. Having determined that notice of this hearing had been properly served, the Tribunal went on to consider whether it would be appropriate to proceed with the hearing in Dr Ray's 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.
11. Mr Hall invited the Tribunal to proceed in Dr Ray's absence. He reminded the Tribunal that Dr Ray had acknowledged GMC's emails on 1 and 3 May 2023. He submitted the Dr Ray had confirmed that he would not be attending the hearing.
12. Mr Hall submitted Dr Ray had stated on two occasions that he did not wish to attend and was given the opportunity by GMC to make an application for postponement if he felt he would be able to attend on a later date. He submitted to the Tribunal that the hearing should proceed in Dr Ray's absence.

13. The Tribunal noted the relevant case law in determining whether to proceed in the absence of a practitioner, in particular the case of *GMC v Adeogba [2006] EWCA Civ 162*. The Tribunal reminded itself that there was a public interest in ensuring the expeditious hearing of cases. Further, all relevant documents had been sent by email to Dr Ray's registered email address. In addition, Dr Ray on 1 May 2023 had acknowledged the GMC's email which attached Rule 34(9) letter, the Allegation and information about the MPTS hearing. The Tribunal took into account that there would be potential disadvantage to Dr Ray in proceeding in his absence, but noted that he had expressed his intention not to attend. The Tribunal further noted that Dr Ray had confirmed in his email of 1 May 2023 that and had indicated that he had no further documents to submit and was content for the Tribunal to rely on his witness statement and defence bundle submitted earlier. The Tribunal also noted that any prejudice to Dr Ray was to be weighed against the wider public interest in concluding cases swiftly.
14. The Tribunal considered the contents of Dr Ray's emails. In his email dated dated 1 May 2023:

*'1. I acknowledge the receipt of this mail with enclosed allegation.
2. I wish to confirm that I shall not be able to attend the MPT hearing XXX
I can not afford any legal representation either for my constrained financial state.
3. I also wish to confirm that I have no further documents to submit and am content for the tribunal to rely on my witness statement and defense bundle that were submitted earlier.
4. I wish to confirm to GMC that I accept the allegation and regret it. I am genuinely repentant.
5. I wish to inform that I don't have any objection to any of the documents in the GMC draft bundle.
6. I wish to reiterate that I shall not be represented at the MPT hearing. The reason has been mentioned above.
Kindly inform me if you need any further information.'* [sic]

15. In Dr Ray's email dated 3 May 2023 he stated:

'Thanks for your mail. As I mentioned earlier in a separate reply, I am not attending the hearing. XXX'

16. Dr Ray had confirmed that he would not be attending the hearing due to XXX and would not be represented. Following the email from Dr Ray dated 3 May 2023, the GMC responded the same day and gave Dr Ray the option to make an application to the MPTS

for postponement if that would allow him to attend at a later date and the GMC had attached to that email guidance on postponement. Dr Ray has not responded to this email.

17. The Tribunal was satisfied that Dr Ray had voluntarily absented himself from these proceedings. No application for an adjournment had been received despite the GMC giving Dr Ray the opportunity to ask for an adjournment. The Tribunal concluded that there was no evidence before it that an adjournment would secure his attendance at a later date. The Tribunal was of the view that no useful purpose would therefore be served by an adjournment. Further the Tribunal considered there would be no injustice to Dr Ray by proceeding. Having regard to the public interest, the Tribunal decided that it was fair and in the interests of justice to proceed with this hearing in the absence of Dr Ray. It therefore determined to proceed in Dr Ray's absence in accordance with Rule 31.