

PUBLIC RECORD

Dates: 07/05/2024 - 20/05/2024; 16/09/2024 – 19/09/2024

Medical Practitioner’s name: Dr Keith WOLVERSON

GMC reference number: 4328696

Primary medical qualification: MB BS 1996 University of London

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired
Review - Misconduct		Not impaired

Summary of outcome

Suspension 12 months
Review hearing directed
Immediate order imposed

Tribunal:

Medical Tribunal Member (Chair)	Ms Christina Moller
Lay Tribunal Member:	Mrs Ann Bishop
Medical Tribunal Member:	Mr Ian Crighton
Tribunal Clerk:	Mrs Jennifer Ireland (7 – 20 May 2024) Mr John Poole (16-19 September 2024)

Attendance and Representation:

Medical Practitioner:	Present, not represented (7 – 9 & 14 May 2024) Not present, not represented (10, 15 - 20 May 2024 & 16 – 19 September 2024)
Medical Practitioner’s Representative:	N/A
GMC Representative:	Mr Thomas Coke-Smyth, Counsel (7 – 20 May 2024) Mr Tom Orpin-Massey, Counsel (16-19 September 2024)

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 Facts - 14/05/2024

Background

1. Dr Wolverson qualified in 1996 with a MBBS from the University of London. Dr Wolverson qualified as a General Practitioner ('GP') in 1999. His career included practice as a locum GP.
2. The Allegation that has led to this hearing arose after Dr Wolverson was said to have practised as a medical practitioner, in breach of an order of suspension imposed by a previous Medical Practitioners Tribunal ('MPT') concluding in October 2022. After this hearing, Dr Wolverson was notified that the sanction imposed by that Tribunal was a nine-month order of suspension. In a letter dated 22 November 2022 the MPTS informed Dr Wolverson that, as he had not lodged an appeal, his registration was suspended from the Medical Register for nine months from 19 November 2022, the date that his suspension came into effect. Dr Wolverson is alleged to have undertaken locum shifts for Practice Plus Group ('PPG') between 19 and 23 November 2022. He is also alleged to have practised for PPG between 26 November 2022 and 12 December 2022. Dr Wolverson is alleged to have failed, without delay, to notify Locum.co.uk or PPG of his suspension.
3. On 23 November 2022, the GMC received an email from NHS England, which said that, while taking action to suspend Dr Wolverson from the Medical Performers' List, Dr Wolverson had informed them that he had made an appeal against his suspension, and that he was therefore able to practise. The GMC and MPTS made further enquiries with Dr Wolverson, his former solicitors and the High Court. Dr Wolverson was asked to provide evidence that he had appealed, such as a Court reference number, receipt, sealed claim

form or other confirmation. Dr Wolverson provided a copy of a claim form he had sent to the Court of Appeal, not the High Court (where he should have lodged his appeal).

4. The High Court informed the MPTS that Dr Wolverson had not lodged an appeal with the High Court. After this, on 24 November 2022, the MPTS informed Dr Wolverson that the [High] Court had no record of his appeal; also, that the form he had provided did not appear to have been sealed by the Court of Appeal Civil Division, where he had sent it. On 25 November 2022, Dr Wolverson was informed by the MPTS that, as the Court had no record of his appeal, the suspension would remain in place. The MPTS contacted the High Court on 28 November 2022 to confirm that the High Court had no record of an appeal. On 6 January 2023, Dr Wolverson informed the GMC that the Court [of Appeal, Civil Division] had acknowledged receipt, but he had decided not to proceed with his appeal.

5. On 9 February 2023, Dr A, Deputy Responsible Officer and Medical Director for Primary Care at PPG raised these concerns with the GMC.

The Outcome of Applications Made during the Facts Stage

6. The Tribunal granted the GMC's application under Rule 34 of the General Medical Council (Fitness to Practise Rules) 2004 (the Rules) to adduce additional documentary evidence. The full decision on this application is at Annex A.

7. On the fourth day of the hearing, the Tribunal granted the GMC's application under Rule 31 of the Rules to proceed in Dr Wolverson's absence. The full decision on this application is at Annex B.

The Allegation and the Doctor's Response

8. The Allegation made against Dr Wolverson is as follows:

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

1. On one or more occasion, as set out in Schedule 1, you worked for Practice Plus Group ('PPG') whilst your registration was suspended. **To be determined**
2. On 25 November 2022 you were informed by the Medical Practitioners Tribunal Service ('the Communication') that:

- a. they had not received evidence that an appeal had been lodged; **To be determined**
 - b. confirmation had been received by the High Court that they held no record of any appeal; **To be determined**
 - c. suspension of your registration came into effect on 19 November 2022; **To be determined**
 - d. your registration remained suspended. **To be determined**
3. Following the Communication, you continued to work for PPG on one or more occasion, as set out in Schedule 2. **To be determined**
 4. You failed to inform the following organisations that your registration was suspended without delay:
 - a. PPG; **To be determined**
 - b. Locum.co.uk. **To be determined**

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

The Facts to be Determined

9. Dr Wolverson did not admit or deny any part of the Allegation. Therefore, the Tribunal had to determine all paragraphs of the Allegation.

Witness Evidence

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

- Dr A, Deputy Responsible Officer and Medical Director for Primary Care at PPG, by video link;
- Ms B, Director at Locum.co.uk, by video link.

11. Dr Wolverson did not provide a written statement. However, he gave oral evidence to the Tribunal and answered questions from Counsel and the Tribunal.

Documentary Evidence

12. The Tribunal took account of all documentary evidence provided by the GMC and Dr Wolverson, including:

- A hearing outcome letter from the MPTS to Dr Wolverson’s former solicitors, dated 17 October 2022;
- An email dated 28 October 2022 (heading only) showing a stamp from the Court of Appeal indicating receipt in November 2022;
- A letter dated 22 November 2022 from the MPTS to Dr Wolverson confirming the sanction imposed by the Tribunal;
- An email from the MPTS to Dr Wolverson, confirming his suspension, dated 25 November 2022;
- Correspondence by email between the MPTS and the High Court in November 2022;
- An email from Dr C to Dr Wolverson, dated 13 December 2022; and
- Correspondence by email between the GMC and the Court of Appeal, Civil Division in October and November 2023.

The Tribunal’s Approach

13. The Legally Qualified Chair (‘LQC’) provided advice on the approach to be adopted in determining facts in dispute. There was no comment on the legal advice.

14. The burden of proving disputed facts is on the GMC. Dr Wolverson does not need to prove anything. The standard of proof is that applicable to civil proceedings, the balance of probabilities. Where an event is considered to be inherently improbable, it may take better evidence to prove it. This goes to the quality of evidence: *Byrne v GMC* [2021] EWHC 2237.

15. The Tribunal should consider the entirety of oral evidence heard, in the context of documentary evidence. Clear reasons should be given if the evidence of one witness is preferred over that of another in relation to any key issue in dispute. Submissions are not evidence, and the Tribunal should draw its own conclusions from what it has seen and heard. The Tribunal should not assess a witness’s credibility exclusively on their demeanor: *Dutta v GMC* [2020] EWHC 1974.

16. Tribunals should base factual findings on inferences drawn from documentary evidence and known or probable facts and use oral evidence to subject the documentary records to critical scrutiny and to consider the witness’s motivation. Tribunals should assess the evidence in the round.

17. The Tribunal should analyse the evidence fairly and impartially, taking account of any gaps or inconsistencies, as well as explanations for apparent contradictions. It should consider all the evidence before drawing conclusions about the credibility of an account from any witness.

18. The Tribunal must consider, separately, the evidence in relation to each allegation. If it finds one allegation proved, or not proved, it does not follow that the Tribunal will reach the same conclusion in relation to other allegation/s. The Tribunal must be satisfied that each element of an allegation has been made out before finding a specific allegation proved.

19. In relation to paragraph 4 of the Allegation, the GMC must establish a duty as well as omission/s in order to prove that Dr Wolverson failed to act as required.

The Tribunal's Analysis of the Evidence and Findings

20. The Tribunal accepted this legal advice and considered each paragraph of the Allegation separately. The Tribunal assessed oral evidence in the context of documents adduced, to find facts on issues in dispute. Although Dr Wolverson did not make admissions at the outset of the hearing, when giving evidence he indicated that he did not deny the facts alleged at paragraphs 1 and 3 of the Allegation.

21. The Tribunal considered that it could make certain findings of fact relevant to its determination, based on undisputed documentary (or other) evidence. Dr Wolverson did not dispute the provenance of emails and other correspondence adduced by the GMC. Mr Coke-Smyth did not challenge the Court of Appeal stamped email provided by Dr Wolverson to the Tribunal. On this basis the Tribunal accepted that documentary evidence was properly relied on.

Undisputed Chronology

22. On 17 October 2022, the MPTS wrote to Dr Wolverson informing him of the outcome of the substantive hearing. The Tribunal sanction was a nine-month order of suspension. The MPTS letter said that, if Dr Wolverson did not appeal within 28 days (by 18 November 2022) the suspension order would come into effect:

'If you do lodge an appeal you must, immediately, provide the MPTS with evidence, together with the date on which your appeal was lodged. Evidence that may provide proof of an appeal being lodged could include:

- *the reference number provided by the court, or*

- a receipt of payment to the court, or
- a sealed claim form, or
- letter or other correspondence from the court.

... If we do not receive evidence from you of an appeal having been lodged, we will assume that you have not lodged an appeal and the sanction directed by the tribunal will be made effective.'

23. On 19 October 2022, Dr Wolverson's solicitor (for his original Tribunal) emailed the MPTS to say:

'I refer to your correspondence dated 17 October 2022 ... I wrote to you in May 2022 to inform you that I would be the solicitor with conduct of this matter. I have today received your email and will be passing on the information to my client.'

23. On 2 November 2022, Dr Wolverson emailed the MPTS:

'I wish to appeal against my suspension and I am unsure where to send this, please?'

24. On 3 November 2022, Dr Wolverson emailed the MPTS:

'I had sent the Appellant's notice to the Court of Appeal branch of the High Court. As yet, I have received no reply.'

25. The MPTS replied to Dr Wolverson on 3 November 2022:

'It is correct to send your appeal to the High Court in the first instance. Please forward confirmation of the court granting permission to appeal once you receive it.'

26. On 22 November 2022, the MPTS emailed Dr Wolverson: *... 'since you have not appealed the tribunal's decision, the tribunal's direction took effect on 19 November 2022'*. This information was also sent by recorded delivery to Dr Wolverson. He signed to indicate receipt of the letter on 23 November 2022, as he confirmed in oral evidence.

27. On 23 November 2022, the MPTS emailed Dr Wolverson requesting evidence that he had lodged an appeal and listing examples of acceptable proof.

28. Dr Wolverson provided an Appellant's Notice dated 22 October 2022 addressed to the High Court and a screenshot of part of his grounds of appeal. It did not bear a correct seal or stamp.

29. On 23 November 2022, the High Court emailed the MPTS to say, *'On review of the court's system no records could be found under the party name of Keith Wolverson,'* indicating that the High Court had not received an appeal from Dr Wolverson.

30. On 24 November 2022, the MPTS emailed Dr Wolverson to say that the High Court had, *'no record of an appeal lodged'* in his name. Dr Wolverson was asked again to provide additional evidence, such as the reference number provided by the court, receipt of payment to court, or a sealed claim form, or letter or other correspondence from the court.

31. Dr Wolverson replied *'I cannot help that the Court have not received this'*. He replied that he had sent this twice and would re-send again; he asked for the Court email address and then forwarded an email he had sent to the civilappeals.registry@hmcts.gsi.gov.uk with an appeal notice on 16 November 2022.

32. The MPTS emailed Dr Wolverson on 25 November 2022 giving him an email address for the High Court in relation to appeals:
generaloffice@administrativecourtoffice.justice.gov.uk.

33. The MPTS also said that:

'As we did not receive evidence that an appeal had been lodged, your suspension was made effective on 19 November 2022. Unfortunately, as the court has confirmed that they have no record of an appeal lodged on your behalf, the suspension must remain in place. If you can provide some additional evidence of your appeal, from the options set out below, we can make further enquiries of the court.'

34. The MPTS emailed the High Court on 28 November 2022, requesting that records be checked for an appeal from Dr Wolverson. The High Court replied:

'Thank you for your email, I can confirm that no appeal has been lodged by Dr Wolverson in this court.'

35. Dr Wolverson emailed the MPTS on 29 November 2022:

'An Appeal is in process, and you have plenty of evidence to support this.'

36. The MPTS emailed Dr Wolverson on 30 November 2022 to say:

'As advised previously, the Appellant's notice that you forwarded to us was not sealed by the court and we are therefore unable to accept it as evidence of an appeal. In addition, in response to our enquiries, the court has confirmed on 23 and 29 November 2022 that it has no record of an appeal lodged in your name.

The evidence that we can accept was communicated to you in our letter dated 17 October 2022 and has been provided to you again in our recent our recent email communications. Unfortunately, your registration remains suspended until we receive evidence of an appeal.'

37. Dr Wolverson emailed the MPTS on 1 December 2022 to say: *'I have completed, as far as I am aware, the Documents required for such an appeal'*. This was the final relevant correspondence with the MPTS directly on this matter.

38. On 6 December 2022, the GMC contacted Dr Wolverson to confirm his email address. On 6 January 2023 he responded and said: *'However, with advice from the Medical Protection Society (MPS), I have withdrawn the appeal'*. Dr Wolverson did not specify how or when.

Paragraph 1

39. The GMC allege that Dr Wolverson worked for Practice Plus Group (PPG) whilst his registration was suspended on one or more occasion, on 20, 21, 22 or 23 November 2022.

40. Dr Wolverson gave evidence that the appeal process was unclear and that he had been unsure how (or where) to lodge his appeal. He did not deny that his suspension had come into effect on 19 November 2022, although he said that he did not realise this at the time. He did not deny paragraph 1 of the Allegation.

41. The Tribunal took account of evidence from Dr A that, between October and December 2022, Dr Wolverson had worked for PPG through a locum agency: Locum.co.uk. He had registered with this agency and started to work through them in May 2022. Dr A's evidence was that Dr Wolverson had worked on 20, 21, 22 and 23 November 2022.

42. The Tribunal considered that, although Dr Wolverson had attempted to lodge an appeal against his suspension, he had contacted the Court of Appeal instead of the High Court, had not made payment of court fees and therefore had not correctly appealed

against the order of suspension imposed by the previous Tribunal in 2022. The Tribunal concluded that, in the absence of a properly lodged appeal, Dr Wolverson’s suspension had come into effect on 19 November 2022.

43. The Tribunal has been provided with undisputed evidence of the dates Dr Wolverson worked at PPG, set out in Schedule 1. The Tribunal took account of the fact that Dr Wolverson accepted that he had worked the relevant shifts. In his oral evidence he said that, as far as he knew, he *‘had the right to keep working’*.

44. The Tribunal found as fact that, by 25 November 2022, MPTS correspondence had informed Dr Wolverson clearly that his registration was suspended and that he should not be practising as a doctor. Whether he had absorbed this information or not, the Tribunal concluded that it was more likely than not that he had worked as a doctor one or more times, from 20 to 23 November 2022, while suspended.

45. Accordingly, the Tribunal found paragraph 1 of the Allegation proved.

Paragraph 2

46. The GMC alleged that, on 25 November 2022, the MPTS informed Dr Wolverson that:

- a) The MPTS had not received evidence that an appeal had been lodged;
- b) confirmation had been received by the High Court that they had no record of any appeal;
- c) suspension of Dr Wolverson’s registration had come into effect on 19 November 2022;
- d) Dr Wolverson’s registration remained suspended.

47. The Tribunal considered that sub-paragraphs 2 (a), (b), (c) and (d) of the Allegation should be considered together as all stemmed from information in one email to Dr Wolverson from the MPTS.

48. The Tribunal took account of an email sent from the MPTS to Dr Wolverson on 25 November 2022. It included the following lines:

‘As we did not receive evidence that an appeal had been lodged, your suspension was made effective on 19 November 2022. Unfortunately, as the court has confirmed that they have no record of an appeal lodged on your behalf, the suspension must remain in place.’

49. The Tribunal took account of the fact that the MPTS had informed Dr Wolverson on 23 November 2022 that the [High] Court had no record of his appeal:

‘On review of the court’s system no records could be found under the party name of Keith Wolverson.’

50. Although Dr Wolverson had communicated with the Court of Appeal, the MPTS email was based on the absence of any record of an appeal from Dr Wolverson to the High Court, the correct court for appealing against the order of suspension imposed by the earlier Tribunal. The MPTS email was unambiguous and the information it contained was accurate.

51. Based on evidence presented by the GMC, the Tribunal found that information provided by the MPTS to Dr Wolverson was accurate. The Tribunal concluded that the GMC had proved, to the civil standard, that Dr Wolverson had been informed by the MPTS on 25 November 2022 as follows:

- The MPTS had not received evidence from Dr Wolverson that an appeal had been [correctly] lodged, *and*
- Confirmation had been received by the High Court that they held no record of any appeal from Dr Wolverson, *and*
- Suspension of Dr Wolverson’s registration came into effect on 19 November 2022, *and*
- Dr Wolverson’s registration remained suspended.

52. The Tribunal found paragraphs 2(a), (b), (c) and (d) of the Allegation proved.

Paragraph 3

53. Dr Wolverson did not deny that, after the MPTS email to him dated 25 November 2022, he had worked for PPG on one or more occasions, between 26 November 2022 and 12 December 2022 (as set out in Schedule 2).

54. The Tribunal took account of evidence from Dr A that Dr Wolverson had undertaken 17 shifts whilst suspended, including the dates in Schedule 2. PPG’s records showed that Dr Wolverson was booked (about a month ahead) for shifts up to 29 December 2022.

55. Dr A gave evidence that Dr Wolverson had undertaken clinical work, according to PPG records, for up to 78 hours between 20 November and 12 December 2022, after his suspension had come into effect.

56. The Tribunal also took account of the statement of Dr A:

'I attach a screenshot of the booking system reflecting these scheduled shifts as Exhibit MG3. Exhibit MG3 was provided to Dr Wolverson after he made a request to PPG's local rota team on 27 November 2022 about what shifts he was booked for.'

57. A screenshot provided by Dr A showed the shifts listed in Schedule 2. Dr Wolverson accepted that he had worked shifts for PPG after 25 November 2022, as set out in the Allegation. He did not deny the facts alleged at paragraph 3 of the Allegation.

58. The Tribunal found that Dr Wolverson had, on one or more occasion, worked for PPG after 25 November 2022, when the MPTS had confirmed his suspension.

59. Accordingly, the Tribunal found paragraph 3 of the Allegation proved.

Paragraph 4

60. The GMC allege that Dr Wolverson failed to inform, without delay, the following organisations that his registration was suspended: PPG and/or Locum.co.uk. To prove paragraph 4, the GMC would have to show that Dr Wolverson had a duty to inform these organisations of his suspension as well as to prove relevant omission/s.

61. The GMC submitted that Dr Wolverson should have informed PPG and Locum.co.uk, without delay, of his suspension, so that his shifts could be re-allocated. The Tribunal accepted this and considered that Dr Wolverson had a duty to inform any employer, agency or similar organisation of his suspension.

Paragraph 4(a)

62. Dr A gave evidence that she first became aware of Dr Wolverson's suspension in December 2022. This was through the GMC's Decision Circular, a monthly document produced by the GMC. The circular lists names of doctors who have recently had actions taken against their licence.

63. Dr A gave evidence that PPG would check names on the list against names of doctors working through PPG. As a result, PPG discovered that Dr Wolverson had been suspended, with effect from 19 November 2022. On 20 December 2022, PPG terminated his engagement. Dr A said:

'...Dr Wolverson had not explained prior to my email to him on 20 December 2022 that he had gone through an investigation with the GMC and that a sanction had been imposed on his registration by the Medical Practitioners Tribunal...

I do not recollect Dr Wolverson ever advising me or PPG that he had been suspended following an MPT hearing or informing us that he was allowed to continue to work whilst appealing his suspension.'

64. Although Dr C did not give evidence, the Tribunal took account of an email from Dr C to Ms B, dated 13 December 2022, which said:

'The GMC have alerted us to the fact that Dr Keith Wolverson has been suspended as of the November 19th 2022.

We have discovered that he has been working despite the suspension,

Were you aware, we were not.'

65. Three minutes later, on 13 December 2022, Dr C emailed Dr Wolverson:

'I have been informed by the GMC that you were suspended on the 19th November 2022. And thus from that date you should not have been working.

Our Responsible Officer (RO) has advised that we remove you as of now from all shifts.'

66. The Tribunal considered Dr Wolverson's evidence that his colleagues were aware of his ongoing GMC investigation and the fact that he was subject to interim conditions of practice. Dr Wolverson said, in evidence to the Tribunal: *'To my certain knowledge, everyone knew of my appeal against suspension.'*

67. In cross examination, Dr Wolverson told the Tribunal that he saw Dr C once, twice or three times each month, and that they worked in different locations. He also said that Dr C knew of his suspension and that they had *'chatted'* about it, prior to December 2022. Dr Wolverson said that he did not write to Dr C:

'I saw her occasionally at work ... I did not write to Dr C... Dr C knew, she chatted to me about it, but I cannot give exact dates.'

68. Dr Wolverson gave evidence that he thought that Dr C was aware of his suspension. He told the Tribunal that he *'may have discussed the outcome with Dr C'* but did not say when.

69. Dr Wolverson told the Tribunal that he was unaware of Dr A personally. He said he had a *'right to appeal, also a right to continue working during period of appeal'*. Dr Wolverson added that he was, *'busy enough treating patients; it was not my job to be involved in administrative processes with PPG'*. He added that: *'Ms D was also aware of my suspension and my appeal.'*

70. Dr A gave evidence that Dr Wolverson could have informed someone else at PPG of his suspension and that it did not have to be to her directly. Dr A said that Dr Wolverson had not informed anyone at PPG that he had been suspended and added that the GMC Decision Circular in December 2022 had first made PPG aware of his suspension.

71. Although she did not give evidence, the Tribunal took account of Dr C' emails indicating that she had not been aware that Dr Wolverson was suspended until notified by the GMC Decision Circular. Taking account of all evidence, the Tribunal concluded that the GMC had demonstrated that it was more likely than not that Dr Wolverson had not informed PPG, without delay, of his suspension.

72. Therefore, the Tribunal found paragraph 4(a) of the Allegation proved.

Paragraph 4(b)

73. The Tribunal considered that Dr Wolverson had a duty to inform Locum.co.uk, as the agency through whom he obtained work, of his suspension.

74. The Tribunal took account of Ms B's witness statement, dated 13 June 2023:

'When Dr Wolverson became compliant with Locum.co.uk in May 2022, he was registered on the GMC records with a licence to practice and so he was still able to work whilst being investigated, subject to conditions. PPG were also aware of Dr Wolverson's situation, his ongoing investigation and they were still happy for Dr Wolverson to work for them through his original agency or Locum.co.uk knowing this.'

75. The Tribunal also took account of Ms B's written evidence that, in his application form to Locum.co.uk, Dr Wolverson had responded *'yes'* to the question about any current restrictions on his registration. He had then written *'details already provided'*. However, Ms B's evidence was that she had only been informed of conditions (in August 2021), not the suspension of Dr Wolverson's registration.

76. Dr Wolverson gave oral evidence that Ms B of Locum.co.uk knew of his suspension, so she did not require to be formally notified in writing that he had been suspended. He said that he believed he had told Ms B of his suspension, but that she may not recall this.

77. Where it differed from that of Dr Wolverson, the Tribunal preferred the evidence of Ms B. The Tribunal considered that Ms B, as a director of a recruitment agency for locum GPs, should have recalled being given important information about a doctor's suspension. Ms B's account of events had similarities to that of Dr A, and this added weight to it.

78. The Tribunal accepted the evidence of Ms B that she was aware of the GMC investigation, but not of Dr Wolverson's suspension. Taking account of all evidence, the Tribunal concluded that the GMC had demonstrated that it was more likely than not that Dr Wolverson had not informed Locum.co.uk, without delay, of his suspension.

79. Accordingly, the Tribunal found paragraph 4(b) of the Allegation proved.

The Tribunal's Overall Determination on the Facts

80. The Tribunal has determined the facts as follows:

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

1. On one or more occasion, as set out in Schedule 1, you worked for Practice Plus Group ('PPG') whilst your registration was suspended. **Determined and found proved**
2. On 25 November 2022 you were informed by the Medical Practitioners Tribunal Service ('the Communication') that:
 - a. they had not received evidence that an appeal had been lodged; **Determined and found proved**
 - b. confirmation had been received by the High Court that they held no record of any appeal; **Determined and found proved**
 - c. suspension of your registration came into effect on 19 November 2022; **Determined and found proved**

- d. your registration remained suspended. **Determined and found proved**

- 3. Following the Communication, you continued to work for PPG on one or more occasion, as set out in Schedule 2. **Determined and found proved**

- 4. You failed to inform the following organisations that your registration was suspended without delay:
 - a. PPG; **Determined and found proved**

 - b. Locum.co.uk. **Determined and found proved**

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

Determination on Impairment - 17/09/2024

81. The Tribunal must now consider whether, in view of the facts found proved, Dr Wolverson’s fitness to practise is currently impaired by reason of misconduct. The Tribunal was also informed at this stage of the hearing, that under Rule 21A of the Rules, it must conduct a review of a previous tribunal’s finding of impairment by reason of misconduct.

The Outcome of Applications Made during the Impairment Stage

82. The Tribunal granted Mr Orpin-Massey’s application, made pursuant to Rule 31 of the Rules, to proceed in the absence of Dr Wolverson. The Tribunal’s determination is included at Annex F.

Background to the review matters

The 2022 Tribunal

83. Dr Wolverson’s hearing took place in March, June and October 2022 (‘the 2022 Tribunal’).

84. At the time of the events leading which led to the 2022 Tribunal proceedings, Dr Wolverson was working as a locum at Urgent Care Centres (UCCs) in Derby and Stoke. At the facts stage, Dr Wolverson admitted, that on one or more occasion between January and April

2018, he had recorded inappropriate comments about the English language skills of several patients in their medical records.

85. The 2022 Tribunal found that, on 13 May 2018, Mrs Q and her child attended a consultation with Dr Wolverson, and he asked her to remove her face veil. Despite having been told by Mrs Q that she wore the veil for religious reasons and did not wish to remove it, Dr Wolverson had repeated his request several times, and *'caused'* her to remove her veil.

86. The 2022 Tribunal also found that Dr Wolverson dishonestly said in an email dated 25 May 2018 that the reasons for his actions during the consultation with Mrs Q were that she *'spoke poor English'*, he was *'struggling to understand her'* and he was *'trying to look at her mouth movements to aid communication'*.

87. The 2022 Tribunal considered *'that there was no evidence that Dr Wolverson had put patients at risk'*. However, Dr Wolverson had breached fundamental tenets of the medical profession, *'that a doctor should treat a patient fairly, with respect, and in a manner that justifies the trust put in them by patients and the public'*.

88. The Tribunal also concluded that Dr Wolverson's conduct had brought the profession into disrepute, because patients and other professionals were *'likely to be shocked to discover that a doctor would write such inappropriate and personal entries in patient notes'*. Dr Wolverson's conduct had breached Good medical practice ('GMP') and amounted to serious misconduct.

89. In his witness statement to the 2022 Tribunal, Dr Wolverson said that his comments arose from frustration. In oral evidence Dr Wolverson accepted that his comments had been unprofessional, adding that they were *'borne out of frustration'*. In cross-examination, Dr Wolverson said that his entries were a way of *'appropriately letting off steam'*. In answer to Tribunal questions, Dr Wolverson replied: *'I have already said that I would not do so again. It was regrettable. I shouldn't have made those comments. The reasons I did so, was because it was letting my frustrations go'*. Dr Wolverson had said that it was *'incumbent on patients to speak an intelligible level of English'* but accepted that his comments about this in their records *'would be upsetting to people.'*

90. The 2022 Tribunal found that, although his behaviour was remediable, Dr Wolverson had not sufficiently reflected on the inappropriate nature of his notes and their impact on a patient who read them. Dr Wolverson had accepted that his actions were unprofessional and regrettable. He gave evidence that he had changed his practice so that he only now records factual information in the notes.

91. The Tribunal concluded that Dr Wolverson had only limited insight into the impact of his actions and that *‘there remained a risk of him repeating his behaviour when he became frustrated in the same way as he had previously done’*.

92. The 2022 Tribunal concluded that a finding of impairment was necessary to uphold the wider public interest, including to uphold standards of conduct and to maintain public confidence in the medical profession: Section 1(1B)(b) and (c) of the Medical Act 1983.

93. At the sanction stage, the 2022 Tribunal determined that there were no exceptional circumstances in Dr Wolverson’s case to justify taking no action. The 2022 Tribunal determined that it would not be appropriate to impose conditions on Dr Wolverson’s registration as this would be insufficient to mark the seriousness of his actions. The Tribunal took account of the fact that Dr Wolverson had completed communication skills and diversity training courses in 2022. The 2022 Tribunal considered that Dr Wolverson’s reflective piece had shown some development of insight. Overall, the 2022 Tribunal found that Dr Wolverson’s actions were not fundamentally incompatible with continued registration.

94. The 2022 Tribunal considered the need to uphold standards and maintain public confidence in the profession. Dr Wolverson had made inappropriate notes in medical records, repeated a request to a patient to remove a veil (worn for religious reasons) and responded dishonestly to a complaint from a patient. However, the Tribunal also took account of the public interest in enabling doctors to return to practice, if feasible, and sought to balance these factors. Dr Wolverson had practised for over 25 years as a doctor and the GMC did not suggest that there were any concerns about patient safety.

95. The 2022 Tribunal determined that the public’s trust would not be undermined if Dr Wolverson was allowed to return to practice once he had gained sufficient insight into his actions. The 2022 Tribunal determined that a 9-month order of suspension, with a review, was the appropriate and proportionate sanction. The 2022 Tribunal considered that a future Tribunal may be assisted by hearing from Dr Wolverson to demonstrate how he has:

- Increased his insight into his actions to a sufficient level,
- remediated the matters raised in this hearing,
- any other relevant information that Dr Wolverson sought to rely on.

The 2023 Tribunal

96. Dr Wolverson's case was first reviewed at an MPT hearing which began on 4 August 2023 and concluded on 16 August 2023 ('the 2023 Tribunal').

97. At the 2023 Tribunal, Dr Wolverson provided a reflective statement dated 7 May 2023 and gave oral evidence at the hearing. He also provided a CPD Certificate relating to a module on Insight.

98. Dr Wolverson said that he deeply regretted the comments he had made in the patients' medical notes, adding that he had been frustrated by communication barriers in the context of other urgent work. He said that he had practised medicine without restriction for four years since the incidents in 2018 and there had been no repetition of his misconduct or any other adverse findings, clinical or ethical.

99. Dr Wolverson said that he had stopped practice due to the suspension order. Dr Wolverson said that he had reflected by putting himself in the position of patients who did not speak good English. If faced with a similar situation, he said he would act differently in relation to such consultations in future. Dr Wolverson said that he would only make professional comments in future and referred to evidence that he had changed his practice in the four years prior to his suspension. Dr Wolverson said he would simply record '*communication difficulties*' as appropriate, adding that he would be alert to signs of distress and spend longer if necessary.

100. Dr Wolverson accepted all of the findings of the 2022 Tribunal, except that relating to dishonesty and recognised the gravity of his actions. Dr Wolverson recognised that patients must be able to trust doctors, as emphasised by the course on insight; he said it made him focus on the fact that he was advertising himself as a decent and wholesome professional. Dr Wolverson said that, without trust in doctors, patients may be reluctant to seek necessary medical care, thus placing their health at risk.

101. Dr Wolverson recognised that dishonesty is very serious but maintained that his intention was not to mislead or to be dishonest in 2018. He said that he thought his interpretation and record of his response to the patient's complaint could have been better phrased, but his intention had not been to deceive.

102. Dr Wolverson submitted that it would be completely wrong to maintain the suspension and prevent a doctor from practising medicine in the context of grave shortages in the NHS. He said that he should be allowed to return to work as his practice has changed; he has been subject to similar challenging circumstances and reacted appropriately.

103. The 2023 Tribunal found that Dr Wolverson had engaged with the 2022 proceedings, provided a statement of reflection and given oral evidence. In his reflective statement provided to the 2023 Tribunal, Dr Wolverson stated:

I have considered the findings of The Tribunal and I do, of course, consider that honesty and integrity are one of the most important aspects of a Doctor's character. I do see that the public would lose trust in any Doctor that was felt to be behaving dishonestly and that this may be extrapolated to the profession in its entirety and thus Patients may not seek Medical help with ensuing a possibly very serious, consequences. As a great deal of the treatment that we administer to patients is formulated in conjunction with other Doctors, this may lead to Colleagues mistrust too, which may further reduce the efficiency and quality of Medical care for our patients.

I know that over the past months, during this suspension, I have been greatly saddened by my being unable to enjoy the privilege of being a trusted Medical practitioner, someone that My patients expect to have integrity and someone that my patients put their utmost trust in....Someone that they often divulge distressing, highly personal details to, has not been there for them and that very satisfying, deeply privileged and enjoyable role has left an enormous void in my life. It has greatly distressed me to receive on a daily basis, the medical rotas via email, with extremely frequent requests for Doctors, because they are in such short supply.

I have undertaken training about Medical ethics, Honesty and Probity and this has augmented the very real possible outcomes in various scenarios, which may result from Doctors behaving dishonestly. I have been unable to demonstrate the effect of such training on my practice but if permitted to do so, I will make clearer Medical notes, more comprehensive ones and also will now take a more reflective approach to individual cases to ensure that my notes are always transparent, clear and unambiguous.

I have already stated and do again that I regret my use of inappropriate comments in patients notes and if permitted to practice again, would be able to corroborate this. In any case, those comments were made years ago, there had been no repeat of them and there never would be.

I could see how they may undermine trust in the profession and now write my notes to reflect what a patient may feel upon reading them and what I would feel if I were a patient, reading them. I have stated that my default position would never be to ask a patient to remove a face veil and that although my explanation for doing so may have

appeared dishonest, as it was felt that this patient spoke good English, I certainly do struggle to hear a patient when their mouth is covered, as I have often done so during the recent pandemic. However, my intent was never to be duplicitous or dishonest.

I do see the cultural significance to the wearing of a facial covering to some faiths and as such, this has far greater potential resonance, than a patient removing a face mask for prevention of viral transmission. I am, therefore, extremely keen and highly motivated to give the public back a Medical Practitioner that looks upon it as his duty, his calling in life and his absolute pleasure to be a trusted Medical practitioner whose integrity and honesty, they can truly rely upon, whatever their ethnicity, culture or individual circumstances.

104. Despite Dr Wolverson undertaking CPD on Insight, the August 2023 Review Tribunal considered that he had not provided evidence of further study in relation to cultural diversity. However, Dr Wolverson had apologised for his actions in 2018 and in 2022. Dr Wolverson accepted the previous Tribunal's findings except in relation to dishonesty. Dr Wolverson had practised for four years since the incidents without any repetition and expressed a better understanding of the impact of his actions on Mrs Q and the potential impact on the patients whose records contained inappropriate notes.

105. Although the 2023 Tribunal considered any risk of repetition to be low, Dr Wolverson had not provided evidence of further insight or remediation since October 2022. The 2023 Tribunal considered that a finding of impairment was required in the wider public interest. The August 2023 Tribunal concluded that Dr Wolverson's fitness to practise remained impaired by reason of his misconduct in 2018.

106. The 2023 Tribunal had to make a decision as to the appropriate sanction to impose, if any, taking account of the Sanctions Guidance (SG). The Tribunal sought to balance Dr Wolverson's interests with the public interest, to be proportionate.

107. The 2023 Tribunal considered the aggravating and mitigating factors. It considered the aggravating factors to be that Dr Wolverson's actions were discriminatory, particularly towards Mrs Q, and that while he provided some evidence of remediation, it was insufficient to demonstrate full insight. The 2023 Tribunal considered the mitigating factors to be Dr Wolverson's apology for his actions and expression of remorse, the lapse of time since the incidents, that there was no evidence of repetition of the misconduct since 2018, and there were no previous fitness to practise findings against him.

108. The 2023 Tribunal considered that there were no exceptional circumstances to justify taking no action against Dr Wolverson.

109. The 2023 Tribunal considered that a 12-month order of conditions was a proportionate sanction. One of the conditions imposed was that Dr Wolverson design a personal development plan (PDP), with specific aims in regard to *‘Equality, diversity and inclusion (EDI) with particular reference to cultural diversity’* *‘Candour and honesty when responding to complaints,’* and *‘Stress and time management and building resilience in a pressurised clinical environment.’*

110. The 2023 Tribunal acknowledged that Dr Wolverson would require time to get his PDP approved on the areas for development and to obtain the evidence to demonstrate to a future reviewing Tribunal that his fitness to practise is no longer impaired.

111. The 2023 Tribunal reminded Dr Wolverson that the onus would be on him to demonstrate further insight at a future review hearing. Dr Wolverson was advised that a reviewing tribunal might be assisted by a detailed reflective statement, a copy of his PDP and a list of any CPD undertaken, a report from his Responsible Officer (RO) detailing Dr Wolverson’s engagement and developmental progress, up to date testimonials and any other information he considered might assist to evidence remediation and to show that the risk of repetition is highly unlikely.

Tribunal’s Analysis of Background Context and Further Evidence: September 2024

Evidence

112. The Tribunal has considered all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence at this stage. This included but was not limited to:

- The Record of Determinations from the 2022 Tribunal and the 2023 Tribunal;
- CPD Certificate – Module on Insight dated 6 May 2023;
- Dr Wolverson’s reflective statement dated 7 May 2023;
- Testimonial from Dr C, Clinical Lead at PPG, dated 21 February 2023;
- Letter from Ms B, Director of Locum.co.uk, dated 12 July 2023;
- Evidence of vacancies for locum GPs;
- Letter from prospective employer;
- Various email communications between the GMC and Dr Wolverson
- Dr Wolverson’s written submissions in an email dated 16 May 2024.

Submissions on behalf of the GMC

113. On behalf of the GMC, Mr Orpin-Massey provided detailed written submissions. He supplemented these with oral submissions.

114. In summary, Mr Orpin-Massey submitted that Dr Wolverson's fitness to practise is impaired by reason of misconduct.

115. Mr Orpin-Massey reminded that the Tribunal that it must first consider whether the 2022 Allegation found proved amounts to misconduct, and second, whether Dr Wolverson's fitness to practise is impaired by reason of his misconduct in 2018 and/ or 2022. He submitted that the Tribunal must also take account of Dr Wolverson's response to the conditions of practise order imposed in 2023.

116. Mr Orpin-Massey submitted that the facts found proved in this case are sufficiently serious to reach the threshold for misconduct and represent a serious breach of relevant standards. He argued that, in working whilst suspended, Dr Wolverson wilfully ignored a clear instruction from the MPTS, and failed to tell his employers about his suspension. Mr Orpin-Massey submitted that Dr Wolverson's action had breached paragraphs 65 and 73 of GMP. Paragraph 76 should also be considered.

117. Mr Orpin-Massey submitted that breaching a sanction imposed by the MPTS was a serious matter. He submitted that, whatever initial misunderstanding there may have been as to the appropriate court to which to appeal, it became clear to Dr Wolverson that no evidence of an appeal having been properly lodged and that he should immediately cease practising, however Dr Wolverson continued to practise until 13 December 2022. Mr Orpin-Massey reminded the Tribunal of the MPTS email to Dr Wolverson on 25 November 2022 and submitted that Dr Wolverson's decision to carry on practising while suspended amounted to a wilful defiance of an explicit instruction from the MPTS.

118. Mr Orpin-Massey emphasised that, had they known the true position, Dr Wolverson would not have been allowed to continue practising by those employing him as a GP. Mr Orpin-Massey submitted that the seriousness of Dr Wolverson's failure to tell PPG and Locum.co.uk about his suspension after 19 November 2022 was compounded by the fact that, on 15 December 2022, he misleadingly informed Locum.co.uk that the MPTS was aware of the appeal process taking place and had been in communication with the Court. Mr Orpin-Massey submitted that this was incorrect and clearly indicates that Dr Wolverson's failure to inform them about his suspension was deliberate.

119. Mr Orpin-Massey said that an inadvertent or innocent breach of suspension would be serious, in itself. He submitted that Dr Wolverson’s conduct is even more serious in this situation as it showed a wilful and reckless disregard for the MPTS.

120. Mr Orpin-Massey then took the Tribunal through the review matters to be considered. He first outlined the determinations of the 2022 Tribunal in relation to impairment and the decision to suspend Dr Wolverson’s registration for 9 months. Mr Orpin-Massey referred to the determination of the 2023 Tribunal in relation to impairment and the decision to replace the sanction of suspension with one of conditions for a period of 12 months.

121. Mr Orpin-Massey submitted that Dr Wolverson, having been unsuccessful in trying to persuade the 2023 Tribunal to remove restrictions on his practice, had attacked both the findings of the 2023 Tribunal and the earlier findings of the 2022 Tribunal. Mr Orpin-Massey alluded to correspondence between the GMC or the MPTS and Dr Wolverson, which he submitted had become increasingly inappropriate and suggested a reckless disregard for the regulatory system.

122. Mr Orpin-Massey submitted that Dr Wolverson has failed to engage with the conditions imposed by the 2023 Tribunal. He said that Dr Wolverson had not completed a PDP and seemed unwilling to do so. Mr Orpin-Massey submitted that, although Dr Wolverson was not in practice, he could have prepared a draft PDP but did not do so.

123. Mr Orpin-Massey reminded the Tribunal of the relevant caselaw to consider at the impairment stage, as well as the need to take account of the overarching objective in the Medical Act 1983.

124. Mr Orpin-Massey argued that Dr Wolverson appeared to have revealed an underlying attitude of contempt for the process which he feels has wrongly prevented him practising.

125. Mr Orpin-Massey submitted that Dr Wolverson’s lack of insight should be of concern. He submitted that, instead of complying with conditions as far as possible, Dr Wolverson had focused on the perceived unfairness to him, rather than the misconduct which he had been invited to remediate. Mr Orpin-Massey submitted that insight was necessary in order to reduce the risk of repetition.

126. Mr Orpin-Massey submitted that the Tribunal cannot have confidence that Dr Wolverson has insight or that he has remediated his misconduct. He argued that the evidence indicates that there is a significant risk of Dr Wolverson repeating his inappropriate

comments about patients' language abilities, his conduct towards Ms Q, or that he would fail to cooperate with an order from the MPTS.

127. In regard to Dr Wolverson's continued denial of dishonesty in relation to Ms Q, Mr Orpin-Massey submitted that the GMC did not invite a finding of impairment on this basis alone, or even predominantly on this basis. However, he submitted that the Tribunal should take account of principles in *Sawati v GMC [2022] EWHC 283*.

128. In conclusion, Mr Orpin-Massey submitted that a finding of impairment was necessary to maintain public confidence (in doctors) and maintain proper standards.

129. Mr Orpin-Massey submitted that in relation to his actions in 2022, Dr Wolverson's misconduct had brought the profession into disrepute and breached a fundamental tenet of the profession, as all doctors must cooperate with their regulator. Practising in breach of a suspension order was serious, particularly in the context of clear direction from the MPTS not to do so. Moreover, it was sustained and Dr Wolverson only ceased practising when his work was terminated by PPG.

130. Mr Orpin-Massey submitted that a finding of impairment was required to maintain public confidence and uphold and declare proper standards.

131. In response to Tribunal questions, Mr Orpin-Massey submitted that the Tribunal should consider whether Dr Wolverson's fitness to practise is currently impaired, making a global assessment of both matters. He submitted that it was a binary decision: either Dr Wolverson's fitness to practise is impaired, or it is not.

The Relevant Legal Principles

132. The Legally Qualified Chair (LQC) gave legal advice on the approach for the Tribunal to take when considering impairment in the presence of Dr Wolverson and Counsel for the GMC. There were no comments on the legal advice provided. The LQC advised that:

133. The Tribunal must follow a staged process in regulatory proceedings. It has made findings of fact, so must next consider misconduct, determine whether any misconduct was serious and, if so, then consider impairment of fitness to practise. The fact that the second part of this stage is separate from the first indicates that not every case of misconduct results in a finding of impairment: *Cohen v GMC [2008] EWHC 581*.

134. The word misconduct in section 35C(2)(a) of the Medical Act 1983 connotes a serious breach indicating that a doctor's fitness to practise was impaired. It is important to see the facts in the context of a doctor's whole practice: *Calhaem v GMC [2007] EWHC 2606*.

Misconduct was described as a wrongful or inadequate mode of performance of professional duty in *Mallon v GMC [2007] CSIH 17*.

135. In *Remedy UK v GMC [2010] EWHC 1245* the High Court said that misconduct is of two principal kinds. First, misconduct going to fitness to practise in the exercise of professional medical practice. Second, morally culpable or otherwise disgraceful conduct, outside or within professional practice. Conduct falls into the second category if it is dishonourable or attracts opprobrium; that fact may be sufficient to bring the profession of medicine into disrepute and it does not matter whether it is directly related to the exercise of professional skills.

136. In determining impairment, the Tribunal must consider whether the facts found by the tribunal indicate any risk of harm, breach of a fundamental tenet of the [medical] profession, bringing it into disrepute, or dishonesty in the past or likely future issues: *CHRE v Grant [2011] EWHC 927* citing the Fifth Shipman report:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

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

b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession.'

d. has in the past been dishonest and/or is liable in the future to act dishonestly...

137. The need to maintain public confidence in the medical profession, or declare standards of behaviour, may mean that a doctor's fitness to practise is impaired by reason of certain acts of misconduct of themselves. This is because the public simply would not have confidence in him, or in the profession's standards, if a Tribunal regarded that sort of conduct as leaving fitness unimpaired; a finding can be necessary to reaffirm to the public and doctors the standard of conduct expected of them: *Yeong v GMC [2009] EWHC 1923*.

138. *GMC v Chaudhary* [2017] EWHC 2561 reminds Tribunals of the importance of the overarching objective, the tripartite public interest and the need for a proper balancing exercise of all three elements of the public interest test.

139. *Yusuff v GMC* [2018] EWHC 13 reminds Tribunals that findings of fact from the original hearing are not to be reopened in a Review hearing. However, when considering whether fitness to practise remains impaired, it is relevant for the Tribunal to know whether or not a doctor now admits the findings or whether they accept the findings in the sense that they do not seek to go behind them, while still maintaining a denial of the conduct underpinning the findings.

140. Admitting an element of misconduct is not a condition precedent to establishing that a doctor understands the gravity of the actions and/or is unlikely to repeat them.

The Tribunal's Determination on Impairment

Misconduct

141. This Tribunal first considered whether the facts found proved at paragraphs 1 – 4 of the Allegation, amount to misconduct.

142. In summary, the Tribunal found that Dr Wolverson practised as a doctor in breach of the suspension imposed by the 2022 Tribunal. Dr Wolverson worked as a locum doctor for PPG on numerous separate occasions while suspended and he had not informed PPG or Locum.co.uk of his suspension. His actions were repeated and sustained over several weeks. After 25 November 2022, it cannot be said that Dr Wolverson was unaware of explicit advice from the MPTS, who had informed him that his registration was suspended and that the High Court (the relevant court for his appeal) had no record of an appeal in his name. Dr Wolverson had disregarded accurate information from the MPTS and his actions had had a significant effect on PPG, Locum.co.uk, his colleagues (and risked damaging public confidence in doctors).

143. The Tribunal found that Dr Wolverson's conduct breached paragraphs 65 and 73 of GMP, which provide that:

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

“73 You must cooperate with formal inquiries and complaints procedures and must offer all relevant information while following the guidance in Confidentiality.”

The Tribunal also took account of paragraph 76 which makes it clear that doctors have an obligation to disclose any suspension.

“76 If you are suspended by an organisation from a medical post, or have restrictions placed on your practice, you must, without delay, inform any other organisations you carry out medical work for and any patients you see independently.”

144. The Tribunal considered that Dr Wolverson’s misconduct was inextricably linked to his position as a doctor as it arose in the course of his professional practice. Dr Wolverson did not disclose his suspension to PPG or locum.co.uk. It was left to them to take (belated) action following receipt of the GMC Decision Circular indicating that he had been suspended. The Tribunal considered that other doctors and members of the public would condemn Dr Wolverson’s actions and that working in breach of a suspension order had potential to undermine public trust and confidence in the medical profession.

145. Taking account of all evidence and points made by Dr Wolverson and the GMC, the Tribunal determined that repeatedly working in breach of a suspension order, over several weeks in late 2022, was a serious breach of requisite standards and amounted to misconduct.

Impairment

146. The Tribunal next had to consider the issue of impairment in relation to misconduct found at this hearing, as well as Dr Wolverson’s actions in 2018.

147. Dr Wolverson said that the conditions imposed by the 2023 Tribunal meant he could obtain *‘absolutely no medical work’*. He said that, as he was not offered any work, he could not undertake a PDP.

148. This Tribunal considered that Dr Wolverson had reflected on, and accepted, that it was inappropriate to make comments about his patients’ lack of ability to use English language in medical records. He had also acknowledged that doctors should not ask anyone to remove a veil (religious covering) without good reason and that it may cause distress to do so. He was entitled not to accept the finding of dishonesty, but he should demonstrate that he understood the importance of being honest as a general principle or tenet of medical practice.

149. In 2023 Dr Wolverson expressed some insight into his actions in 2018. He provided a reflective statement to the 2023 Tribunal and showed that he had undertaken appropriate CPD. He had also changed his practice in relation to how he deals with patients wearing veils, and how he makes entries in the medical records. The Tribunal was aware of his continued denial of the dishonesty allegation as well as the principles in *Yusuff*. Dr Wolverson is entitled to maintain his denial but should demonstrate that he is aware of the need for honest practice and fair, accurate records, with any errors being admitted.

150. The Tribunal took account of the lapse of time (six years) since events in 2018. It was not provided with any evidence of repetition of unwarranted remarks in medical records, or inappropriate requests to lift a veil or remove other clothing, or of dishonesty, between 2018 and 2022 when he last practised. Dr Wolverson had reflected on his behaviour and the offence it may cause to patients. In this context, the Tribunal did not identify a significant risk of repetition of his actions in 2018.

151. The Tribunal considered that Dr Wolverson's misconduct in working whilst suspended was serious but remediable. However, the Tribunal was provided with insufficient evidence of insight into the potential consequences of this misconduct. In addition, the Tribunal considered that Dr Wolverson had provided insufficient evidence of remediation. Accordingly, the Tribunal was unable to conclude that adequate steps had been taken by Dr Wolverson to minimise the risk of repetition.

152. The Tribunal was primarily concerned by the Allegation found proved in May 2024. The Tribunal concluded that Dr Wolverson had breached fundamental tenets of the profession by working as a doctor while suspended. Such actions have potential to bring the medical profession into disrepute, as it undermines the regulatory system, which is itself designed to ensure the safety and well-being of patients.

153. The Tribunal concluded that a finding of impairment was necessary in order to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for the members of the profession.

154. The Tribunal determined that Dr Wolverson's fitness to practise is impaired by reason of misconduct in 2022.

Determination on Sanction - 19/09/2024

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

The Evidence

156. The Tribunal has taken into account evidence received during the earlier stages of the hearing, where relevant, to reaching a decision on sanction. It received no further evidence at this stage.

Submissions

157. On behalf of the GMC, Mr Orpin-Massey provided written submissions which he supplemented with oral submissions.

158. In summary, Mr Orpin-Massey submitted that erasure was the only appropriate sanction in this case, and that an immediate order of suspension was necessary and appropriate, due to the seriousness of the misconduct underlying the Tribunal’s determination that fitness to practise is currently impaired.

159. Mr Orpin-Massey referred to the reasons given by the Tribunal for its findings of fact and decision on impairment. He emphasised that Dr Wolverson was found to have breached his suspension repeatedly and this misconduct was sustained over several weeks. The Tribunal had found that Dr Wolverson breached paragraphs 65 and 73 of GMP, and took account of paragraph 76 of GMP.

160. The Tribunal had concluded that members of the public and other doctors would condemn Dr Wolverson’s actions in 2022. This was because Dr Wolverson had breached relevant standards in GMP, as well as fundamental tenets of the profession.

161. Mr Orpin-Massey submitted that, in the round, there had been a persistent lack of insight from Dr Wolverson, in relation to his actions in 2018 (including his inappropriate comments in records about his patients’ use of English) as well as his more recent actions in 2022: working as a doctor in breach of his suspension order.

162. Mr Orpin-Massey submitted that Dr Wolverson had failed to engage with his regulator, the GMC, to whom he had adopted a hostile attitude in correspondence.

163. Mr Orpin-Massey submitted that there were no exceptional circumstances that would justify taking no action, given the serious departure from GMP.

164. Mr Orpin-Massey said that undertakings would be wholly inappropriate, due to the gravity of his Dr Wolverson’s misconduct and his lack of cooperation. Similarly, conditions would be insufficient to mark the seriousness of his actions and may not be workable.

165. Mr Orpin-Massey submitted that, should the Tribunal be minded to impose a suspension order, this should be for the maximum length, with a review. However, he argued that, in all the circumstances, such an order would be insufficient. He added that there were more factors in the SG pointing to erasure.

166. Mr Orpin-Massey directed the Tribunal to paragraph 109 of the SG which outlines various factors which, if present, may indicate that erasure is appropriate. In particular, he submitted that the following were engaged:

‘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 difficult to remediate.

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

d Abuse of position/trust...

i Putting their own interests before those of their patients...

j Persistent lack of insight into the seriousness of their actions or the consequences’

167. Mr Orpin-Massey submitted that this case represents a particularly serious departure from GMP. He submitted that Dr Wolverson’s repeated breach of his suspension order was not an isolated or ‘one-off’ incident. Instead, Dr Wolverson had continued to work as a doctor after clear information from the MPTS that his registration was suspended and that he must not practise.

168. Mr Orpin-Massey submitted that Dr Wolverson’s actions in 2022 showed a deliberate and reckless disregard for the principles set out in GMP. He said that Dr Wolverson knew that to work whilst suspended was a breach of the rules and that information from the MPTS on 25 November 2022 had confirmed his suspension.

169. Mr Orpin-Massey submitted that Dr Wolverson had not justified the trust placed in him as a doctor and that his actions would undermine public confidence in the medical profession. His actions had breached relevant principles of GMP.

170. Mr Orpin-Massey argued that Dr Wolverson had put his own interests above those of his patients by working whilst suspended.

171. Mr Orpin-Massey submitted that Dr Wolverson had persistently failed to show insight into the seriousness of his misconduct or the consequences of his actions. Dr Wolverson appeared reluctant to engage with these proceedings in a meaningful way.

172. Mr Orpin-Massey acknowledged that there were some factors to indicate that a suspension may be appropriate. However, he submitted that, taking account of his continuing lack of insight, the Tribunal should conclude that Dr Wolverson's misconduct is fundamentally incompatible with continued registration.

173. Mr Orpin-Massey submitted that erasure would mark the very serious departure from GMP and maintain public confidence in the profession.

174. However, if the Tribunal were to decide that erasure is not required, the only other appropriate sanction is a lengthy suspension, with a review.

175. Mr Orpin-Massey also submitted that, in view of the Tribunal's findings, an immediate order of suspension is required in the public interest.

Legal Advice from LQC

176. The LQC gave advice to the Tribunal as to the approach to be adopted at the Sanction stage. There were no comments on it.

177. At the Sanction stage of proceedings there is no burden or standard of proof and the decision on sanction is a matter for the Tribunal's judgment alone. GMP sets out principles of good practice and the standards expected of doctors. Where the misconduct is grave, erasure from the register may be the only means of protecting patients or of maintaining public confidence in the profession. If possible a balance should be struck between the individual interest and the public interest, but this cannot always be achieved.

178. *Raschid and Fatnani v GMC* [2007] 1 WLR 1915 states that the tribunal is centrally concerned with the reputation of the profession, rather than punishment of the doctor, despite the fact that sanctions may have a punitive, even a devastating, effect. *Bijl v GMC* [2001] UKPC 42 said that a tribunal should not be obliged to erase an otherwise competent and useful doctor who presents no danger to the public in order to satisfy public demand for blame and punishment.

179. The aim of the SG is to promote consistency and transparency in decisions, as was confirmed in *CRHP v GMC* and *Leeper [2004]* EWHC 319: it helps to achieve a consistent approach to the imposition of sanctions. The Tribunal must have regard to SG, but each case will depend on its own facts and there is no rigid tariff.

180. The SG is intended to be flexible and is not comprehensive or specific in describing all circumstances. If the tribunal has sound reasons for departing from the SG it must state those reasons clearly in their decision. Although a Tribunal need not adhere to the SG, it should have proper regard to and apply it: *Bramhall [2021]* EWHC 2109. If departing from the SG, a Tribunal has a duty to state clear, substantial and specific reasons for the departure.

181. Mitigation can affect the type of sanction, as well as the length of a relevant order. In *Wisniewska v NMC [2016]* EWHC 2672 it was said that, where there are only two options for sanction, such as striking off or suspension, it is critical that the available mitigation is applied when evaluating the proportionality of a suspension as well as when considering erasure.

182. Although mitigation can reduce the length of suspension, it could also pull a case back from the brink of strike-off and mean that a suspension is proportionate. Mitigation must be assessed by the tribunal when looking at both these issues. Just because there is an absence of independent or objective evidence in relation to a potentially mitigating factor, it should not be treated as an aggravating factor instead: *Al Nageim v GMC [2021]* EWHC 877.

183. In *PSA v GMC and Doree [2017]* EWCA Civ 319 it was confirmed that a tribunal may reasonably find that a registrant has shown insight or remorse without hearing oral evidence to demonstrate it, even if it has rejected the doctor's evidence on some or all of the allegations. Whether a doctor has shown insight into his misconduct and how much insight he has shown are classically matters of fact and judgement for the professional tribunal in light of the evidence before it. In assessing a doctor's insight, the Tribunal must weigh all the relevant evidence, including points made by the doctor in writing or in evidence, as well as any testimonials.

184. In reaching its decision, the Tribunal must consider relevant parts of the SG. It will bear in mind that the main reason for imposing sanctions is to protect the public, taking account of the statutory overarching objective in section 1 of the Medical Act 1983. In deciding what sanction, if any, to impose the Tribunal will consider all sanctions available, starting with the least restrictive. It will also take account of the principle of proportionality and the need to weigh the interests of the public against those of the doctor.

Decision of Tribunal

185. The Tribunal was aware that the purpose of a sanction is to protect patients and/or the wider public interest. There is no burden or standard of proof and the decision is a matter for the Tribunal's judgment alone, taking account of all the evidence, submissions and points made by the GMC and Dr Wolverson, in the context of relevant principles in GMP and the SG.

186. The Tribunal also took account of the public interest in facilitating the safe return to practice of an otherwise competent doctor, where possible. However, it recognised that, in some cases the misconduct is so grave that erasure is the only means of upholding standards and maintaining public confidence in the profession.

187. The Tribunal considered the least restrictive sanction first, and then each available sanction in ascending order of severity. In its deliberations, it sought to apply the principle of proportionality, balancing Dr Wolverson's interests with those of the public.

188. The Tribunal had received various communications from Dr Wolverson, some contained in the hearing bundle and some provided separately. It identified some points made by Dr Wolverson prior to this stage of the hearing as being relevant to sanction and took account of these.

189. As the hearing had been adjourned part-heard, the Tribunal had transcripts of earlier stages of these proceedings. It sought to identify any points relevant to sanction made by Dr Wolverson in his oral evidence. This was particularly important to ensure fairness in the context of his absence at later stages of the hearing,

Aggravating and Mitigating Factors

190. The Tribunal first identified aggravating and mitigating factors, using the SG as a framework for discussion. Paragraphs 51, 52 and 54 were considered relevant.

Lack of insight

51 It is important for tribunals to consider insight, or lack of, when determining sanction. It is particularly important in cases where the doctor and the GMC agree undertakings or the tribunal imposes conditions. The tribunal must be assured that this approach adequately protects patients, in that the doctor has recognised the steps they need to take to limit their practice to remediate.

52 A doctor is likely to lack insight if they:

- a. refuse to apologise or accept their mistakes*
- b. promise to remediate, but fail to take appropriate steps, or only do so when prompted immediately before or during the hearing*
- c. do not demonstrate the timely development of insight.*

Previous finding of impairment

54 Where the GMC, or another regulator, has previously made findings of impaired fitness to practise and imposed a sanction on the doctor's registration, the tribunal may wish to consider this as an aggravating factor in relation to the case before it.

191. The Tribunal considered that a doctor may demonstrate insight into different aspects of their misconduct at a hearing, by way of a reflective statement or by giving evidence at the Impairment or Sanction stages. This may involve identifying catalysts for breaches of GMP or other actions amounting to misconduct. Insight should include appropriate recognition of the seriousness of acts or omissions found proved. Reflection on the likely or potential adverse consequences of misconduct would also assist a doctor to remediate and minimise risk of repetition.

192. The Tribunal considered that Dr Wolverson has not demonstrated sufficient insight into reasons for his misconduct in 2022 or the consequences of working in breach of a suspension order for patients, colleagues or the reputation of the profession. In particular, he did not show that he had reflected on the effect of his working in breach of a suspension order if there were to be complaints or other adverse events. Dr Wolverson participated in this hearing in May 2024 by giving oral evidence and by communicating with the Tribunal by email. However, he did not provide any further reflections or evidence to the Tribunal after May 2024.

193. Although he recognised that it was a serious matter to work in breach of a suspension order, the Tribunal considered Dr Wolverson's lack of insight into the potential consequences of his actions to be an aggravating factor. His insight was, at best, partial. Despite his eventual acceptance (at the hearing in May 2024) that he had worked while suspended, the Tribunal considered this to be relatively late.

194. As the MPTS had already found Dr Wolverson's fitness to practise to be impaired by reason of misconduct in 2018, the Tribunal identified this as an aggravating factor and gave it particular weight. This was because sanctions had been imposed on him previously in relation to his actions in 2018.

195. The Tribunal was also concerned by the prolonged and sustained nature of his misconduct, in that Dr Wolverson had worked on numerous days, over four weeks, whilst his name was suspended from the medical register. This amounted to an aggravating factor, as Dr Wolverson had disregarded accurate information provided to him by the MPTS in relation to his suspension and need to cease practice. At the facts stage the Tribunal had found that Dr Wolverson had worked on several dates for PPG, after 25 November 2022, when the MPTS had confirmed his suspension.

196. In regard to mitigating factors, the Tribunal considered the following paragraphs of the SG to be relevant:

25 The following are examples of mitigating factors.

a Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it. This could include the doctor admitting facts relating to the case, apologising to the patient..., making efforts to prevent behaviour recurring, or correcting deficiencies in performance or knowledge of English.

e Lapse of time since an incident occurred.

197. Although lack of insight into the potential consequences of working while suspended was an aggravating feature, the Tribunal took account of Dr Wolverson's recognition of the seriousness of a doctor ignoring a suspension order or directive from their regulator.

198. In an email to the Tribunal sent on 16 May 2024 at 00:56 Dr Wolverson wrote:

'I didn't work at all during the period of suspension, other than the shifts that you [the Tribunal] are well aware of, which I admit to doing so, because I can honestly state that the highly complex matter of submitting an appeal was being made and was in process and thus I felt that I was permitted to continue working. The emails from MPTS were spasmodic and often appeared after I had already contacted the courts... I regret any errors in my application [to appeal against sanction of suspension] and accept that those were made, with the analysis and application of hindsight.'

Dr Wolverson gave oral evidence on Day 3 of this Tribunal hearing in May and said that it would be a 'serious matter' to wilfully ignore a suspension order, adding that it would be 'very serious' to ignore a directive not to practise:

Q) You would accept that practising while suspended would be an incredibly serious matter, wouldn't it?

A) If one has mounted an appeal, and one is confident that one has taken due steps to mount an appeal, then of course it's a serious matter if one wilfully ignored a suspension and wasn't making the steps to mount an appropriate appeal. So I would accept that if one was just to ignore the directive and carry on working and take matters into their own hands without going through the due processes, that would be very serious, yes.'

199. To be fair to Dr Wolverson, the Tribunal took account of his insight into the seriousness of working while suspended, in breach of a directive from the regulator, as a mitigating factor. His insight may thus be described as partial. Any attempts to remediate may be consequent to insight and can also strengthen it. In that context the Tribunal took account of a Dr Wolverson's CPD on Insight, evidenced by a certificate dated 6 May 2023, as well as the fact that he had not provided any further evidence of relevant CPD.

200. The lapse of time since November 2022 is almost two years. This may be viewed as a potentially mitigating factor, but the Tribunal gave it limited weight as Dr Wolverson has not been in practice since 2022, so cannot be given credit for not having had any further complaints in the last two years.

201. The Tribunal took account of Dr C's testimonial dated 21 February 2023. Dr C was a GP colleague of Dr Wolverson and was senior to him in the practice. Dr Wolverson was described as punctual and friendly, but the testimonial appeared to be incomplete and did not state that the author was fully aware of the Allegation. In this context, the Tribunal gave the testimonial limited weight; it tended to support Dr Wolverson's assertion that he was a conscientious practitioner.

No action

202. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to conclude by taking no action.

203. The Tribunal considered that there were no exceptional circumstances to justify taking no action. A sanction was necessary to uphold standards and maintain public confidence in the medical profession.

Conditions

204. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Wolverson’s registration. Any conditions imposed must be appropriate, workable and proportionate. Dr Wolverson has not indicated that he would be prepared to comply with an order of conditions. The Tribunal was unable to identify conditions that would be appropriate or sufficient to uphold standards or to maintain public confidence in the profession.

Suspension

205. The Tribunal then considered whether a period of suspension would be sufficient to maintain public confidence in doctors and uphold professional standards.

206. The Tribunal took account of paragraphs 91 92 93 and 97 of the SG:

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

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

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

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

a. A serious 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.

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

f No evidence of repetition of similar behaviour since incident.

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

207. The Tribunal considered that a Suspension Order would have a deterrent effect and would be a signal to Dr Wolverson, other doctors and members of the public about the standards expected of a registered doctor in the UK. Although a Suspension Order is likely to have a significant impact on Dr Wolverson's finances and reputation, its sole purpose is to uphold standards and maintain public confidence in doctors.

208. The Tribunal considered that a lengthy Suspension Order is an appropriate response to Dr Wolverson's misconduct; his actions in 2022 were so serious that action must be taken to uphold standards and to maintain public confidence in the medical profession. The Tribunal regarded Dr Wolverson's misconduct in 2022 as falling just short of being fundamentally incompatible with continued registration. The Tribunal took account of the fact that Dr Wolverson had made some acknowledgement of fault (under affirmation).

209. The Tribunal was satisfied that Dr Wolverson is unlikely, in future, to work in breach of a suspension order or repeat similar misconduct to that discussed in these proceedings. The Tribunal has seen evidence, albeit limited, that Dr Wolverson has reflected, partially changed his views and undertaken some relevant CPD.

210. The Tribunal took account of Dr Wolverson's breach of principles in GMP in 2022 but did not consider his misconduct to be so difficult to remediate that complete removal from the register would be in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to uphold standards or maintain public confidence in the medical profession. The Tribunal took account of Dr Wolverson's earlier point that the NHS needs doctors, in the context of the principle that the Tribunal should facilitate the safe return to work of an otherwise competent doctor, where appropriate.

211. The Tribunal did not have strong evidence to demonstrate that remediation is unlikely (or likely) to be successful. Although Dr Wolverson indicated in May 2024 that he would find it difficult to participate in a hearing in Manchester, he gave evidence in May 2024, answered questions, including in cross-examination by Counsel and made submissions to the best of his ability. He has engaged with the GMC, querying assertions (sometimes rather testily) and making points to support his contentions.

212. The GMC adduced no evidence of repetition of similar behaviour since the relevant time. The Tribunal considered that Dr Wolverson has partial insight and was satisfied that he does not pose a significant risk of repeating his behaviour.

213. The Tribunal reminded itself that it must impose the least onerous restriction necessary to maintain public confidence in the medical professions and uphold standards. It considered relevant paragraphs on erasure in the SG and concluded that, in all the circumstances, that would be disproportionate and not required to maintain public confidence in the medical profession or uphold standards.

214. The Tribunal determined that a sanction of suspension for 12 months (maximum length) with a review was appropriate and proportionate. A Suspension Order was imposed to mark the seriousness of the misconduct in this case and to maintain public confidence in doctors, as well as to uphold standards.

Review

215. At the review hearing, the onus will be on Dr Wolverson to provide any evidence of further insight and remediation. A review Tribunal would be assisted by:

- A detailed reflective statement, focusing on the need to comply with any sanction and cooperate with regulatory provisions to protect the public and the wider public interest.
- Evidence of relevant CPD
- Testimonials or references from authors fully aware of these proceedings
- Any other evidence to support fitness to practise.

Immediate Order

216. The Tribunal determined that an immediate order of suspension was required to maintain confidence in the medical profession and uphold standards. In view of the seriousness of the misconduct, the Tribunal considered that an immediate order of

suspension is required in the wider public interest. The Tribunal revoked the current order of conditions.

217. Case concluded.

ANNEX A – 14/05/2024

Application to adduce further evidence under Rule 34

218. On Day 2 of the hearing, Mr Coke-Smyth, on behalf of the GMC, made an application under Rule 34 of the General Medical Council (Fitness to Practise) Rules 2004 (as amended) ('the Rules'). He submitted that the Tribunal should allow additional evidence to be adduced by the GMC.

219. This included two emails between the GMC and the Court of Appeal, Civil Division Registry, both dated 2 November 2023. In answer to questions from the GMC in relation to Dr Wolverson, the Civil Appeals Office informed the GMC that an application for permission to appeal had been filed on 1 November 2022. The Civil Appeals Office said that it had sent Dr Wolverson a letter dated 23 November 2022 requesting payment, but his case had '*not progressed*' as Dr Wolverson (the applicant) had '*not paid the fee*'. The Civil Appeals Office added that: '*The stamp on the document (attached) came from the mail room at this court when we had received it in hardcopy form.*'

Submissions

220. On behalf of the GMC, Mr Coke-Smyth submitted that the documents were relevant to the proceedings and that it would be fair to allow the GMC to rely on their contents. Mr Coke-Smyth submitted that the stamped email is the only evidence from any court that Dr Wolverson had attempted to appeal against the order of suspension imposed by a previous Tribunal. The Court of Appeal emails are relevant to Dr Wolverson's assertion that he took steps to appeal.

221. Mr Coke-Smyth submitted that the emails may be considered partially to assist Dr Wolverson. This is because the '*Civil Appeal – Received*' stamp confirms that Dr Wolverson contacted the Court of Appeal, Civil Division, instead of the High Court, who would have been able to deal with his appeal. To some extent, the documents corroborate Dr Wolverson's account of what he did. However, the GMC would also rely on this evidence to suggest that Dr Wolverson had provided an incomplete picture of his correspondence with the Court of Appeal; this is because he had not disclosed that he had been asked to pay a fee, nor that he had not done so, and that as a result the appeal was not going to progress.

222. Mr Coke-Smyth submitted that it would be fair to allow the GMC to rely on these emails because Dr Wolverson has had sufficient time to take account of their contents. Although the documents had not been included in the hearing bundle, they were disclosed to Dr Wolverson on 9 April 2024. Mr Coke-Smyth said that the GMC had made enquiries of the

Court of Appeal in response to a document that Dr Wolverson had provided to the GMC. Mr Coke-Smith submitted that there is no reason to doubt the origin or content of the emails.

223. In relation to the timing of this application, Mr Coke-Smyth submitted that allowing the GMC to rely on the emails at this stage would not cause unfairness to Dr Wolverson. Had they been included in the original bundle, there is no obvious action which providing the emails (in advance) would have prompted Dr Wolverson to take in preparation for this hearing. Mr Coke-Smyth submitted that it would be unfair to the GMC not to allow counsel to adduce this evidence. This is because there would be a risk of the case being decided on an incorrect factual basis if the Tribunal was not able to take account of evidence in relation to the precise nature of Dr Wolverson's contact with the Court of Appeal.

224. Dr Wolverson objected to the documents being presented by the GMC. He submitted that the Tribunal already had a copy of a stamped reply from the Civil Court, and he did not see why that needed to be produced again in this format. He drew attention to the relevant page of the original bundle of evidence.

225. Dr Wolverson added that he had sent two cheques to the Court, but he had received no acknowledgement or reply. He submitted that the Tribunal was unaware of his attempts to pay for his appeal and that the additional documents did not give an accurate picture of his contact with the Court. Dr Wolverson said that he did not know if the GMC had made any attempt to ascertain whether he had attempted to make payment to the Court. He was concerned that the GMC was attempting to bias the Tribunal.

226. Dr Wolverson said that he had sent payment in the form of two cheques and that he had provided the stamped document to confirm his contact with the Court. Dr Wolverson submitted that the inclusion of this additional evidence would be completely inappropriate; he strongly objected to the GMC's application to rely on the additional documents.

The Tribunal's approach

227. The Legally Qualified Chair advised the Tribunal to take account of Rule 34(1) of the Rules:

(1) The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.

228. The Tribunal should first consider whether the evidence in question was relevant to any question to be determined by the Tribunal. If deemed relevant, the Tribunal should then

consider whether it would be fair to Dr Wolverson to allow the GMC to rely on the additional evidence. The Tribunal should take account of submissions from Dr Wolverson and the GMC in the context of other relevant evidence. The additional documents should only be admitted if that may be done without injustice to Dr Wolverson.

The Tribunal's decision

229. The Tribunal first considered the issue of the relevance of the documents. The Tribunal considered the documents to be relevant to the issue of efforts made by Dr Wolverson to appeal against his suspension order. The documents partially support Dr Wolverson's account of events and also partially support the GMC's case. Therefore, the Tribunal considered the documents to be relevant to this hearing.

230. The Tribunal next considered whether it would be fair to allow the GMC to adduce the documents. Dr Wolverson must have sufficient time to prepare his case. In this context, the Tribunal took account of Mr Coke-Smyth's uncontested assertion that the documents amounted to four pages and had been sent to Dr Wolverson on 9 April 2024, several weeks before the hearing. The Tribunal did not consider that allowing the GMC to rely on the documents would be unfair to Dr Wolverson.

231. Allowing the documents to be presented to the Tribunal would provide both the GMC and Dr Wolverson with documentary evidence in support of parts of their respective cases. Although there was a (less clear) stamped email in the original bundle, the fresh copy was accompanied by emails between the GMC and Court of Appeal clarifying provenance. This would enable the Tribunal better to understand what enquiries had been made and answers given by the Civil Appeals Office; it would discourage speculation by providing firm evidence.

232. The Tribunal considered that the documents may be relied on by Dr Wolverson as well as by the GMC. Dr Wolverson would have sufficient time fully to consider the documents before giving evidence to the Tribunal, should he choose to do so. In all the circumstances the Tribunal concluded that the (redacted) documents are relevant, and that it would be fair to allow the GMC to adduce them in evidence.

233. The Tribunal determined to grant the GMC's application under Rule 34(1).

ANNEX B – 14/05/2024

Application to Proceed in Absence under Rule 31

234. Prior to this hearing, Dr Wolverson notified the MPTS that he intended to be present for the first day of his Tribunal. On Day 1 of the hearing, 7 May 2024, Dr Wolverson emailed to say:

'I would also state and with sincere apologies, that I cannot be in attendance until the afternoon. At the start of this hearing I did state that I cannot be present, most unfortunately, for all of it...

Please do not interpret this as being disrespectful or rude.'

235. This indicated that he was unable to attend the hearing every day. Dr Wolverson has not applied for an adjournment at any point.

236. To facilitate Dr Wolverson's participation in his hearing, the Tribunal made some adjustments to the schedule, where this could be done without causing undue delay. The LQC advised that the Tribunal may consider an application from the GMC to proceed in his absence if he was not present. Dr Wolverson was invited to provide any medical or other evidence to support any application to adjourn. On Day 2 of the hearing, 8 May 2024, the LQC arranged for written legal advice in relation to Rule 31 of the Tribunal Rules to be provided to Dr Wolverson and to the GMC.

237. On Day 3 of the hearing, after giving oral evidence, Dr Wolverson indicated he would be unable to attend the following day, Day 4. However, he had no further witnesses to present and would be able to provide written submissions on the facts. The Tribunal indicated that it would consider his written submissions, adding that he was welcome to attend the hearing if he wished to make oral submissions too.

Submission

238. On Day 4 of the hearing, 10 May 2024, Mr Coke-Smyth made an application to proceed in Dr Wolverson's absence under Rule 31 of the Rules. He said that Dr Wolverson was clearly aware of the hearing, indicating that proper notice had been given. Mr Coke-Smyth accepted that Dr Wolverson had a right to attend his hearing but was not compelled to do so. He alluded to the need for the fair, economic, expeditious and efficient disposal of the hearing. These factors should be balanced against any prejudice to Dr Wolverson. Mr Coke-Smyth submitted that Dr Wolverson knew that the Tribunal may proceed in his absence and had indicated that he was content for the hearing to proceed. He submitted that this case should proceed without delay as that could be done without being unfair to Dr Wolverson.

The Tribunal's Determination

239. The Tribunal took account of unchallenged legal advice from the LQC. The Tribunal accepted that there is an onus on a doctor to engage with fitness to practise proceedings: *GMC v Adeogba* [2016] EWCA Civ 162. The Tribunal must consider fairness to Dr Wolverson as well as to the GMC. There is no requirement for the Tribunal to review a decision to proceed in absence at each stage of the hearing or to adjourn at each stage to enable the doctor to be present: *Adeogba*.

240. The Tribunal was aware that Dr Wolverson had attended the hearing on previous days and had indicated at the outset that he had other commitments which may prevent his attendance. The Tribunal considered its discretion to proceed in the context of Rule 31.

‘Where the practitioner is neither present nor represented at a hearing, the Tribunal may nevertheless proceed to consider and determine the allegation if they are satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with these Rules.’

241. The Tribunal took account of principles in *Adeogba* and considered the GMC’s application with care and caution. The Tribunal recognised that Dr Wolverson had made himself available to question both witnesses for the GMC and to give oral evidence to the Tribunal himself. Dr Wolverson had provided written submissions on the facts, as he understood that the hearing could go ahead in his absence.

242. The Tribunal considered whether an adjournment would result in Dr Wolverson’s attendance. There was no application for an adjournment and no evidence that an adjournment would result in Dr Wolverson attending. He had not indicated that it would be easier for him to attend at any future date.

243. The Tribunal considered whether a decision to proceed in his absence would be unfair to Dr Wolverson. The Tribunal took account of the fact that Dr Wolverson knew the hearing may proceed in his absence. It was aware of the public interest in Tribunals proceeding fairly and without delay. Although Dr Wolverson had a right to be present (and to be legally represented) he appeared to have waived his right to be present for this part of the hearing. The Tribunal concluded that Dr Wolverson had voluntarily absented himself from this stage of the hearing, having provided his explanation as to why he would not be in attendance.

244. In all the circumstances, the Tribunal concluded that it would not be unfair to Dr Wolverson for the hearing to proceed in his absence at this stage. The Tribunal determined to allow the GMC’s application to proceed in absence under Rule 31.

ANNEX C – 18/09/2024

Application to Proceed in Absence under Rule 31

245. On Day 7 of the hearing, the Tribunal was due to convene at 10:00 for the Impairment stage, having provided a Determination on Facts on Day 6. Dr Wolverson had experienced intermittent IT difficulties with Teams audio on previous days of the hearing and was unable to connect to the hearing at all on the morning of Day 7, despite significant efforts made by Tribunal staff to resolve these issues.

246. After this (at 12:15) the Tribunal updated Mr Coke-Smyth in the hearing about these difficulties. Mr Coke-Smyth said that, as he had no knowledge of the precise nature of IT issues, he would like to take instructions from the GMC in relation to a potential application to proceed in the doctor's absence. An email was sent to Mr Coke-Smyth outlining the issues. The Tribunal adjourned to 14:00 to give Mr Coke-Smyth time to contact the GMC. Dr Wolverson indicated that he should be able to join the hearing briefly by telephone to discuss appropriate steps.

247. At 14:00, Dr Wolverson indicated that it would be difficult for him to dial in by telephone at this point. At 14:10 the Tribunal further updated Mr Coke-Smyth, who then requested more time to take instructions in relation to an application to proceed in Dr Wolverson's absence.

248. The Tribunal was aware that, to proceed with the hearing in Dr Wolverson's absence, it needed to be satisfied that all reasonable efforts had been made to serve him with notice of the hearing and that it was fair and appropriate for the hearing to proceed in his absence.

249. The Tribunal then emailed Dr Wolverson setting out available options to facilitate his attendance, adding that, if he did not respond by 16:00, the Tribunal would hear an application from the GMC on (service in relation to the Review case) and proceeding in his absence. As Dr Wolverson did not respond before 16:00, the Tribunal proceeded to hear the application from Mr Coke-Smyth.

250. On behalf of the GMC, Mr Coke-Smyth took the Tribunal through the service bundle and said that the Notice of Hearing had been sent to Dr Wolverson by email and post. He submitted that service had been effected in accordance with the Rules.

251. The Tribunal was provided with a copy of a Service Bundle. Documents indicated that on 15 March 2024 at 14:51 the GMC had emailed a letter to Dr Wolverson, giving him details of the upcoming hearing and enclosing a copy of the bundle. Dr Wolverson confirmed receipt of this email on 19 March 2024 at 09:28.

Submissions

252. Mr Coke-Smyth said that all reasonable efforts had been made to resolve the IT issues with Dr Wolverson connecting to the Tribunal, as well as offering alternative ways for him attend the hearing. Mr Coke-Smyth asked the Tribunal to take account of the need for a fair, economic, expeditious and efficient disposal of this hearing.

253. These factors should be balanced against any prejudice caused to Dr Wolverson by his absence. Mr Coke-Smyth said that Dr Wolverson knew the Tribunal may proceed in his absence and submitted that this case may now fairly proceed.

Legal Advice

254. The Tribunal took account of legal advice from the LQC: There is an onus on a doctor to engage with fitness to practise proceedings: *Adeogba* [2016] EWCA Civ 162. The Tribunal must consider fairness to Dr Wolverson, but also to the GMC representing the public interest. Where a doctor is neither present nor represented at a hearing, the Tribunal may nevertheless proceed to consider and determine an Allegation if it is satisfied that all reasonable efforts have been made to serve the doctor with notice of hearing in accordance with the 2004 Rules.

255. There is no requirement for the Tribunal to review a decision to proceed in absence at each stage of the hearing or to adjourn at each stage to enable the doctor to be present: *Adeogba*. The onus is on the doctor to attend the hearing and arrange representation if they wish to do so. Although attendance by a doctor is of prime importance, it cannot be determinative, due to the adverse impact of delays on the effective and efficient running of hearings.

The Tribunal's Determination

Service

256. The Tribunal took account of Rule 40(2) of the Rules which says that a notice of hearing or other document may be served by ordinary post or by email to an email address

provided by the doctor to the Registrar for communications. Service may be proved by a confirmation receipt of any notice or document sent by email.

257. The Tribunal took account of evidence that, on 18 March 2024 at 12:15, the MPTS sent Dr Wolverson a Notice of Hearing letter by email, confirming that his hearing would commence virtually on 7 May 2024 and that it was expected to last 10 days. The letter was sent by post on 19 March 2024, and was successfully delivered on 21 March 2024.

258. Documents, including email, established that the Notice of Allegation and the Notice of Hearing were both sent by email and post to Dr Wolverson within the times required by the Rules. The Tribunal took account of evidence of receipt of the Notice of Hearing letter. It also took account of Dr Wolverson's presence at his hearing, when he was notified of the Review hearing. The Tribunal was therefore satisfied that Dr Wolverson had been served with the Notices in accordance with Rules 15 and 40 of the Rules.

Proceeding in Absence

259. The Tribunal considered the GMC's application in the context of legal advice. The Tribunal took account of Dr Wolverson's attendance on previous days, as well as his protracted, but unsuccessful, attempts to join the hearing. It also took account of the fact that Dr Wolverson had been offered alternative ways to participate in his Tribunal hearing, by the MPTS, including attendance in person or by telephone. The Tribunal considered whether an adjournment would result in Dr Wolverson's attendance. There was no application for an adjournment and no evidence that an adjournment would result in his attendance, as he had not identified future dates when it would be more feasible to attend this hearing.

260. The Tribunal considered whether a decision to proceed in his absence would be unfair to Dr Wolverson. The Tribunal took account of the fact that he had been warned that if he did not respond to its recent email, then the Tribunal may consider an application to proceed in his absence. The Tribunal considered that Dr Wolverson had, voluntarily absented himself from this stage of the hearing, because there was no evidence that he was unable to join by telephone or otherwise.

261. In all the circumstances, the Tribunal concluded that it would not be unfair to Dr Wolverson for the hearing to proceed in his absence at this stage. The Tribunal determined to allow the GMC's application to proceed in absence under Rule 31.

ANNEX D – 18/09/2024

Determination on Adjournment

262. On Day 8, the Tribunal was due to reconvene at 10am to commence the impairment stage of the hearing for both the new and review matters. However, the Tribunal experienced further delays due to ongoing IT issues with Teams.

263. The Tribunal was in the rare position of having to consider Impairment in relation to separate proceedings, two years apart. The Tribunal considered that, in all the circumstances, including the complexity of analysis required at this stage, it should not proceed. It was also aware of the general principle that, if the Tribunal is unable to complete a hearing stage in the time remaining, it should adjourn before commencing that stage. This would be fairer to the unrepresented Registrant too.

264. Due to persistent IT issues with Teams and the dwindling time remaining, the Tribunal had to reconsider its earlier (Day 7) decision to proceed in the absence of Dr Wolverson, which predated issues experienced by the Tribunal itself with Teams. Mr Coke-Smyth was invited to make submissions in relation to the proposed adjournment of the hearing, with a view to reconvening as soon as possible.

Submissions

265. Mr Coke-Smyth opposed any adjournment on the basis that there was still two days in the time listed, which may allow him to make submissions as to current impairment of Dr Wolverson's fitness to practise. He said that, if necessary, the Tribunal could reconvene for a single day to hand down its determination on impairment, and then adjourn to consider sanction if required to do so.

266. Mr Coke-Smyth referred to '*attitudinal issues*' in relation to Dr Wolverson's engagement and submitted that it would be unfair to the GMC, representing the public interest, to allow him to delay proceedings. Mr Coke-Smyth argued that the delay was caused by Dr Wolverson.

The Tribunal's Determination

267. The Tribunal had experienced issues with Teams and had no evidence that Dr Wolverson's (similar) inability to connect stemmed from '*attitudinal issues*' rather than genuine technical problems with Teams or his own IT. Dr Wolverson had spent around two

hours with an MPTS Tribunal Assistant unsuccessfully attempting to connect to the hearing. The fact that the Tribunal had been unable to proceed, due to issues with Teams, tended to support Dr Wolverson’s account of trying, but being unable, to connect to his Tribunal hearing.

268. The Tribunal had been provided with additional documents in relation to its obligation to consider a previous matter, by way of Review, at the Impairment stage. This would require additional time to peruse documents, receive submissions, and then analyse relevant facts and issues in the context of legal principles. It was apparent that there would be insufficient time now fully to consider and prepare a determination on impairment.

269. In view of the fact that IT issues were more widespread than was previously apparent, the Tribunal considered that it would be fair to give due weight to the impact on Dr Wolverson of having being unable to connect to his hearing and thus participate in Tribunal proceedings.

270. The Tribunal therefore determined to adjourn the hearing to a future date

ANNEX E – 20/05/2024

GMC Application to extend the current order of conditions under Rule 22(5)(a) and section 35D(12)(d) of the Medical Act 1983

271. Dr Wolverson’s case (relating to misconduct in 2018) was originally considered by another Tribunal at a hearing in March, June and October 2022. In October 2022, the Tribunal determined that Dr Wolverson’s fitness to practise was impaired by reason of his misconduct and imposed a nine-month suspension order on his registration, with a review to be conducted shortly before the expiry of that suspension order. At a Review hearing from 4-16 August 2023, the reviewing Tribunal imposed a 12-month conditions of practice order on his registration, with a Review hearing to be listed shortly before the expiry of that order of conditions.

272. This Tribunal convened on 7 May 2024 to consider a new Allegation of misconduct in relation to events in 2022. On Day 6 of the hearing, 14 May 2024, the Tribunal provided a determination on the facts to Dr Wolverson and the GMC. On Tuesday 14 May 2024, the Tribunal was informed that a Review hearing (in relation to events in 2018 considered by the 2022 Tribunal) had been added to the 2024 Tribunal (in relation to events in 2022). Therefore, this Tribunal would have to review the conditions of practice order imposed on Dr

Wolverson’s registration at the 2023 Review hearing, in addition to considering issues (at the Impairment stage) arising from its own decision on facts.

273. Dr Wolverson gave evidence to the Tribunal and answered questions. He subsequently had difficulty connecting remotely, as did Tribunal members. On Thursday 16 May 2024, Day 8 of the hearing, the Tribunal was unable to start on time, due to IT issues with Teams. After consideration of the remaining time available, the Tribunal determined to adjourn the hearing to a future date, in order to avoid adjourning half way through Stage Two, Impairment, taking account of the additional information provided and issues raised in relation to the 2022 Tribunal (arising from events in 2018).

274. The Tribunal identified dates in July and August 2024 when two out of three members were available. Dr Wolverson and the GMC were invited to consider the potential ability of the hearing to resume with only two of its original Tribunal members. Mr Coke-Smyth said that would be acceptable, but Dr Wolverson objected to any change in the constitution of this Tribunal, as one member would not have heard his evidence or submissions at earlier stages.

275. The Tribunal had also identified dates, when all three Tribunal members would be available, in September, October and December 2024. These were provided to MPTS Case Management on 16 May 2024. The decision as to when the adjourned hearing could be listed and composition of the Tribunal was for the Assistant Registrar or Case Management at MPTS.

276. On Monday 20 May 2024, after hearing submissions from Counsel for the GMC, reading Dr Wolverson’s response to the proposal to extend conditions and receiving Legal Advice, the Tribunal retired to consider its decision on Rule 22(5)(a). Later that morning, MPTS Case Management informed the Tribunal that it could resume this hearing from 16 to 20 September 2024, the first date when all three Tribunal members were available.

Submissions

277. On behalf of the GMC, Mr Coke-Smyth submitted that it is a fundamental requirement of this Tribunal, not necessarily on an application by the GMC, to consider an extension of the current order of conditions, due to expire on 17 August 2024. He invited the Tribunal to extend these conditions to December 2024, being the latest of the available dates identified by the Tribunal. His submissions were heard before Case Management had informed the Tribunal that this hearing could resume from 16-20 September 2024.

278. Mr Coke-Smyth said that the GMC considered it to be in the public interest for this Tribunal to conduct a substantive Review of the 2022 case (2018 events) at the same time as it considered Impairment in relation to facts the Tribunal had found proved in May 2024 (arising from events in 2022). He submitted that, as the Tribunal has not yet heard submissions on impairment, it is not able properly to assess whether the 2023 conditions of practice order should continue or not. Mr Coke-Smyth said that, at the Impairment stage, the Tribunal would have to consider whether Dr Wolverson had developed insight or remediated.

279. Mr Coke-Smyth submitted that Dr Wolverson had failed to comply with condition 4(a) namely the production of a (draft) personal development plan (PDP). He submitted that this indicates that Dr Wolverson was reluctant to comply with his conditions of practice order. Mr Coke-Smyth submitted that both cases should be heard together at the Impairment stage; this is because both raise attitudinal issues in the context of Dr Wolverson's engagement with the GMC and MPTS.

280. Mr Coke-Smyth reiterated that insight is relevant to current impairment of fitness to practise and any risk of repetition of misconduct. He said that adjourning to the first available date would be most desirable, adding that the Tribunal should extend conditions for as long as is required to ensure that Dr Wolverson's registration is not unrestricted pending full consideration of Impairment. Mr Coke-Smyth submitted that the default position must be to extend the current order.

281. Dr Wolverson provided written submissions to the Tribunal, in the form of an emailed response to the GMC's application for conditions to be extended under Rule 22(5)(a). On Friday 17 May, he emailed the Tribunal Clerk. Relevant lines follow:

'I already stated that it was unprofessional of Myself to make the comments such as One did, about Patient's speaking varying qualities of English. That has never been repeated and I provided assurances of this and evidence of this, over years of unlimited practice.

I should remind the Panel that these were patients that spoke such very limited English that One could not ascertain any diagnosis and the potential consequences of that are surely too obvious and potentially so serious as to not require stating. I undertook diversity training, did courses on communication skills and note keeping and still I had restrictions placed upon my Licence. For those reasons, every application that I made for every position, was without success.

For that very obvious reason, I was unable to have and obtain a Workplace Supervisor and did not formulate any Personal Development plan because a Personal

Development plan is pertaining to the context of work and if there is not work being offered then there is no Development possible in this context.'

282. On Sunday 19 May 2024, Dr Wolverson sent another email, extract below:

'Finally, One must add that to prolong any conditions upon my Licence is, indeed, to change the Order made by the previous review hearing. This would serve the practical purpose of increasing the severity of punitive measures with no reason to commend that course of action, such as repetition of similar offences...

If, indeed, the Public were to become aware of the aforementioned in the previous paragraph, their due confidence in proper Tribunal procedure would indeed be damaged...'

[Please note that typographical errors have been rectified, for ease of absorption.]

Legal Advice

283. The LQC gave advice on the approach to be adopted in deciding whether to extend conditions under Rule 22(5)(a). The Tribunal should take account of evidence received in this hearing, context and submissions from the GMC and Dr Wolverson. The GMC rely on the wider public interest as Mr Coke-Smyth has accepted that there is no risk to public safety. The Tribunal should take account of the need to uphold standards and maintain confidence in the medical profession and its regulator. The Tribunal should consider the principle of proportionality and need to be fair to Dr Wolverson as well as to the GMC representing the public interest.

284. The Tribunal should take account of relevant statutory provisions and principles in *Udom* [2009] EWHC 3242 in considering section 35D(12)(d) of the Medical Act which says that conditions may be extended if the Tribunal '*thinks fit*'. Conditions must be reasonable and workable.

285. The LQC referred to submissions in this context. Dr Wolverson's emails suggest that it has been infeasible for him to obtain work as a doctor due to the restrictive nature of his conditions. However, Mr Coke-Smyth did not accept this and argued that the conditions are not unworkable. The GMC position is that *Udom* should have little bearing, if any, on the decision of the Tribunal, as *Udom* did not involve a proposal to extend conditions under Rule 22(5)(a).

The Tribunal's Decision

286. The Tribunal took account of Rule 22(5)(a):

*‘Where, prior to the Medical Practitioners Tribunal making a finding under rule 22(1)(f), a review hearing is adjourned under rule 29(2), the Medical Practitioners Tribunal—
(a) must consider whether to make a direction under section 35D(5)(a), (8)(a), or (12)(c) of the Act and announce its decision in that regard*

287. The Tribunal also took account of section 35D(12)(d) of the Medical Act 1983

‘On a review arranged under subsection 11A or B a Tribunal may, if they think fit, direct that the current period of conditional registration shall be extended for such further period as it would otherwise expire, as may be specified in the direction.’

The Tribunal’s Decision

288. The Tribunal was informed that Dr Wolverson’s current sanction expires on 17 August 2024. MPTS Case Management has now indicated that the Tribunal may reconvene from 16 to 20 September 2024.

289. The Tribunal took account of the impact of conditions on Dr Wolverson’s ability to obtain work as a locum GP and understood his concerns about any extension to the order of conditions. However, the Tribunal was notified that MPTS Case Management had agreed to facilitate a hearing on the first date that all three Tribunal members could be available, in the context of Dr Wolverson’s preference to retain the Tribunal as constituted, as opposed to losing one member.

290. The Tribunal considered that extending the order of conditions for six weeks would not undermine confidence in the medical profession (or regulator). This would mean that Dr Wolverson would be allowed to practise, with conditions, until the next stage of the hearing. In all the circumstances the Tribunal considered that it was not disproportionate to extend the current order of conditions for six weeks, until these proceedings resume in September 2024.

291. The Tribunal took account of the need to uphold standards and to maintain public confidence in the medical profession. In that context, it was concerned that Dr Wolverson’s conditions should not be permitted to lapse in the weeks between 17 August 2024 (expiry date) and his adjourned hearing, now due to resume from 16 to 20 September 2024.

292. Taking account of all relevant factors outlined above, the Tribunal concluded that a six-week extension of conditions was required to maintain public confidence in the profession. It decided to exercise its discretion under Rule 22(5)(a) and section 35(D)(12)(d) on the basis that the Tribunal *'thought [it] fit'* to extend conditions on Dr Wolverson's registration, pending the resumption of this hearing.

293. Accordingly, the Tribunal determined to extend the order of conditions for six weeks.

ANNEX F– 17/09/2024

Determination to proceed in Dr Wolverson's absence

294. On Day 11 of the hearing (the first day of the reconvened hearing on 16 September 2024), Dr Wolverson was neither present nor represented.

295. Mr Tom Orpin-Massey, Counsel, made an application to proceed in the absence of Dr Wolverson. In support of his application, he provided the Tribunal with a proof of service bundle. This included a screenshot of Dr Wolverson's registered address and contact details, as well as emails between the MPTS and Dr Wolverson, showing that Dr Wolverson had acknowledged notification of this hearing (listed 16-20 September) from the MPTS.

296. The Tribunal was aware that the MPTS Notice of Hearing letter was sent to his registered email address on 29 July 2024. This informed Dr Wolverson that the hearing was listed to take place at the Manchester hearing centre from 16 September 2024 to 20 September 2024. Dr Wolverson responded to the MPTS Notice of hearing email on 29 July 2024. The Tribunal noted that a further email was sent by the MPTS to Dr Wolverson on 30 July 2024, informing him that the hearing was due to start at 10:00.

297. Mr Orpin-Massey submitted that Dr Wolverson had been served with the requisite notice of hearing and invited the Tribunal to proceed in the doctor's absence. He said that Dr Wolverson had received notice of this hearing and had not objected to it proceeding or sought an adjournment. He submitted that the Tribunal and GMC Counsel were now assembled, and that there was a significant public interest in concluding Dr Wolverson's case this week, taking account of the seriousness of facts proved in May 2024.

298. Mr Orpin-Massey submitted that there was no good reason to adjourn the hearing or give Dr Wolverson more time, as there was no indication that Dr Wolverson would attend later today or this week. Mr Orpin-Massey referred to the statutory overarching objective

and relevant caselaw for the Tribunal to consider when deciding whether to proceed in a doctor’s absence. He reiterated that there is an onus on Dr Wolverson to engage with these fitness to practise proceedings.

The Tribunal’s Determination

299. The Tribunal was satisfied that Dr Wolverson had been properly served with notification of today’s reconvened hearing, because the Notice of Hearing letter was sent to his registered email address and Dr Wolverson had responded.

300. The Tribunal carefully considered, in accordance with Rule 31 of the Rules, whether it was appropriate to proceed in Dr Wolverson’s absence. In so doing it had regard to principles in *GMC v Adeogba* [2016] EWCA Civ 162 and the need to be fair to Dr Wolverson as well as to the GMC representing the public interest.

301. Dr Wolverson was clearly aware of today’s hearing as he had responded to notification from the MPTS by email. The Tribunal took account of the fact that Dr Wolverson had not requested an adjournment and considered that there was no reason to believe that an adjournment would secure his attendance at a later date or time. The Tribunal considered that Dr Wolverson has waived his right to attend the hearing.

302. The Tribunal took account of the seriousness of facts found proved (working as a doctor while suspended from the medical register) as well as the need for a fair and proportionate approach. The Tribunal decided that there was a strong public interest in the hearing proceeding expeditiously and concluding this week.

303. The Tribunal determined to proceed in Dr Wolverson’s absence in accordance with its discretion under Rule 31 of the Rules.

SCHEDULE 1

Date of Shift	Start Time	Finish Time
20/11/2022	09:30	14:29
21/11/2022	19:30	23:59
22/11/2022	19:30	22:59
23/11/2022	19:30	23:59

SCHEDULE 2

Date of Shift	Start Time	Finish Time
---------------	------------	-------------

Record of Determinations –
Medical Practitioners Tribunal

26/11/2022	09:30	14:29
27/11/2022	09:30	14:29
28/11/2022	19:30	23:59
29/11/2022	19:30	23:59
30/11/2022	19:30	23:59
01/12/2022	19:00	23:58
04/12/2022	09:30	14:29
05/12/2022	19:30	23:59
06/12/2022	19:30	22:59
07/12/2022	19:30	23:59
08/12/2022	19:30	23:59
11/12/2022	09:30	14:29
12/12/2022	19:00	23:59