

## PUBLIC RECORD

Dates: 31/10/2022 - 02/11/2022

Medical Practitioner's name: Dr Luke MORGAN-ROWE

GMC reference number: 7021270

Primary medical qualification: MB BS 2008 University of London

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

**Summary of outcome**Suspension, 6 months.  
Review hearing directed**Tribunal:**

Legally Qualified Chair	Mrs Catherine Moxon
Lay Tribunal Member:	Ms Deborah Spring
Medical Tribunal Member:	Dr Frances Burnett

Tribunal Clerk:	Ms Keely Crabtree (31/10/2022) Ms Kanwal Rizvi (31/10/2022) Mrs Anne Bhatti (1-2/11/2022)
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**Attendance and Representation:**

Medical Practitioner:	Present and not represented
GMC Representative:	Mr Lee Fish, Counsel

**Attendance of Press / Public**

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

## Overarching Objective

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

## Determination on Facts and Impairment - 01/11/2022

### Background

1. Dr Morgan-Rowe obtained his undergraduate medical degree with an intercalated BSC in clinical science from the University of London in 2008.
2. At the time of the index events Dr Morgan-Rowe was a research fellow in the complex aorta treatment team at the Royal Free London NHS Foundation Trust ('the Trust').
3. The Allegation that has led to Dr Morgan-Rowe's hearing can be summarised as, that between 8 June 2012 and 6 February 2013, whilst working for the Trust, Dr Morgan-Rowe dishonestly submitted timesheets claiming payment for hours of overtime worked when he knew he had not worked those hours.
4. Between 16 September 2013 and 4 December 2015, Dr Morgan-Rowe was under investigation for criminal offences of fraud in connection with these claims. It is additionally alleged that, during his Annual Review of Competency Progression ('ARCP'), on four separate occasions, he knowingly failed to disclose the investigation, and that these actions were dishonest.
5. Initial concerns were raised within the Trust in February 2013 and the matter was escalated to the NHS Counter Fraud team. Dr Morgan-Rowe was subsequently arrested and charged with criminal offences of fraud. The matters went to the Crown Court for trial when the Crown Prosecution Service offered no evidence and a not guilty verdict was recorded against Dr Morgan-Rowe in 2016.

### The Allegation and the Doctor's Response

6. The Allegation made against Dr Morgan-Rowe is as follows:

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

1. Between 8 June 2012 and 6 February 2013, on one or more occasion you submitted a timesheet to the Royal Free London NHS Foundation Trust ('the Trust') in order to claim payment for hours of overtime. **Admitted and found proved**
2. On one or more occasion the timesheet that you submitted to the Trust as referred to in paragraph 1:
  - a. contained information that was untrue in that it included a claim for hours that you had not worked; **Admitted and found proved**
  - b. appeared to have been authorised when it had not, in that it contained the photocopied signature of Dr A despite not having been approved by Dr A. **Admitted and found proved**
3. On one or more occasion, you knew that the timesheet submitted to the Trust as referred to in paragraphs 1 and 2:
  - a. contained information that was untrue in that it included a claim for hours that you had not worked; **Admitted and found proved**
  - b. appeared to have been authorised when it had not, in that it contained the photocopied signature of Dr A despite not having been approved by Dr A. **Admitted and found proved**
4. Your action as set out at paragraph 1, was dishonest by reason of paragraphs 2 and 3. **Admitted and found proved**
5. Between 16 September 2013 and 4 December 2015, you were under investigation in relation to alleged criminal offences of fraud ('the Investigation'). **Admitted and found proved**

6. During an Annual Review of Competency Progression ('ARCP'), you failed to provide accurate information regarding outstanding fitness to practise concerns in that you did not refer to the Investigation when completing the Form R dated:
  - a. 25 November 2013; **Admitted and found proved**
  - b. 25 June 2014; **Admitted and found proved**
  - c. 11 November 2014; **Admitted and found proved**
  - d. 18 June 2015. **Admitted and found proved**
  
7. You knew that you failed to provide accurate information during the ARCP, as referred to in paragraph 6, when completing the Form R dated:
  - a. 25 November 2013; **Admitted and found proved**
  - b. 25 June 2014; **Admitted and found proved**
  - c. 11 November 2014; **Admitted and found proved**
  - d. 18 June 2015. **Admitted and found proved**
  
8. Your action as referred to in paragraph:
  - a. 6a was dishonest by reason of paragraph 7a; **Admitted and found proved**
  - b. 6b was dishonest by reason of paragraph 7b; **Admitted and found proved**
  - c. 6c was dishonest by reason of paragraph 7c; **Admitted and found proved**
  - d. 6d was dishonest by reason of paragraph 7d. **Admitted 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**

### The Admitted Facts

7. At the outset of these proceedings, Dr Morgan-Rowe admitted the facts as set out in the Allegation in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

## Impairment

8. Having announced the facts admitted and found proved, in accordance with Rule 17(2)(k) of the Rules, the Tribunal considered whether, on the basis of the facts which it has found proved, Dr Morgan-Rowe's fitness to practise is currently impaired by reason of misconduct.

## Documentary Evidence

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

- Trust Investigation Report dated 5 September 2016;
- LCFS Interim Report dated 26 November 2015;
- LCFS Investigation Closure Report dated 27 June 2016;
- Police documents bundle, including witness statements;
- Notes from Trust telephone interview and meeting with Dr A;
- Emails from Mr B to the GMC dated 8 February 2016 and 10 March 2016;
- ARCP forms dated 24 June 2013, 25 November 2013, 26 June 2014, 13 November 2014 and 18 June 2015;
- Prof C's list of articles and presentations;
- Record of interview, dated 16 September 2013;
- Transcript of Investigation meeting, dated 17 August 2016;
- Dr Morgan-Rowe's statement, dated 24 August 2016 and
- References from Dr Morgan-Rowe's colleagues, dated between 2017 – 2021.

10. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Ms D, Head of Finance Performance Improvement and Development at the Trust;
- Mr E, Counter Fraud Specialist for NHS England and NHS Improvement;
- Dr F, Divisional Director of Urgent care at the Trust (at the relevant time);
- Dr A, Consultant Vascular Surgeon at the Trust;
- Mr B, Operations Manager at Health Education ('HEE');
- Prof C, Leader of Programme for Complex Aortic Aneurysm Endovascular Repair at the Trust;

- Letters of support from Prof C dated 14 March 2016, 5 June 2016, and 15 January 2017.

### Dr Morgan-Rowe's evidence

11. Dr Morgan-Rowe provided his own witness statement dated 21 September 2022 and also gave oral evidence. In his witness statement, Dr Morgan-Rowe admitted the facts of the Allegation. He also stated:

*'I have previously made full admissions to the factual matters contained at allegations 1-3 (submission of the timesheets) in the factual accounts that I provided to the Counter Fraud investigation in September 2013 and to my employing Trust in August 2016..*

*I accept that my conduct at the time was dishonest and, in recognition of the seriousness of my actions, I accept that it amounts to misconduct.'*

12. In his oral evidence, Dr Morgan-Rowe outlined the background to the events in question and stated that he claimed for hours that he did not work based on a sense of entitlement and arrogance. He said that he claimed the money in advance for the hours he knew he would eventually work. He stated that that he knew this was not the normal way to receive payment for work, but it had assisted with his debt XXX at the time. Dr Morgan-Rowe told the Tribunal that it was never his intention to commit fraud as he knew that he would ultimately complete these hours he claimed. Dr Morgan-Rowe explained that a fund existed which was ring-fenced for him to be paid over the course of the research project. He told the Tribunal he would never have made a false claim against public funds. In terms of the ARCP forms, Dr Morgan-Rowe agreed it was dishonest to not disclose his criminal investigation as he had a positive duty to do so. However, he had had a discussion with his senior colleague who had advised him he did not need to. The Tribunal recognised that in his evidence Dr Morgan-Rowe took sole responsibility for his actions, he did not blame anyone else for his current position.

13. During cross-examination, Dr Morgan-Rowe stated that he is a different person now, had gained insight into the character traits that caused him to behave recklessly. He was in a stable financial position with personal checks and mechanisms in place to avoid repeating his behaviour in the future, for example, not making impulsive decisions. He informed the Tribunal that he is involved in medical education work and was keen to continue his practise and maintain his clinical skills. He accepted that he has not kept an accurate list of his CPD hours for his appraisals and had not yet undertaken a formal 360 feedback exercise, both of

which he appreciated were important. He recognised the importance of non-clinical record keeping. He said that he intended to work on these areas in the future.

## Submissions

### On behalf of the GMC

14. Mr Fish, Counsel reminded the Tribunal of the Overarching Objective and outlined the two-stage approach when considering misconduct and impairment. Mr Fish submitted that the facts found proved in this case clearly amounted to serious misconduct, referring the Tribunal to the following paragraphs of Good Medical Practice dated 2013 ('GMP'):

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

*67 You must act with honesty and integrity when designing, organising or carrying out research...*

*71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. 22 You must make sure that any documents you write or sign are not false or misleading.*

*a You must take reasonable steps to check the information is correct.*

*b You must not deliberately leave out relevant information.*

*77 You must be honest in financial and commercial dealings with patients, employers, insurers and other organisations or individuals.'*

15. Mr Fish submitted that the Tribunal has been presented with multiple instances of dishonesty in two areas: the fraudulent timesheets and the ARCP forms. Mr Fish stated that these clearly represent a significant departure from the duties and standards expected of doctors from good medical practice.

16. Mr Fish submitted that it was a matter for the Tribunal to decide whether Dr Morgan-Rowe had done enough to remediate his conduct and if his insight is genuine. He stated that notwithstanding the insight, admissions and the passage of time, Dr Morgan-Rowe's

repeated dishonest behaviour was so serious that a finding of impairment was necessary to maintain public confidence in the profession and to maintain proper professional standards.

#### Dr Morgan-Rowe

17. Dr Morgan-Rowe submitted that this had started 10 years ago when he was in a very different place in life where he felt entitled, arrogant and was accruing debt. He stated that this was an aberrant episode, albeit over a period of months. However, with the benefit of prolonged reflection and maturity, he recognised his behaviour was completely inappropriate and unacceptable. Dr Morgan-Rowe submitted that this has been a traumatic experience which has been the ultimate deterrent to never act in such a way again. He added that *'burying my head in the sand does not serve me'* and that the only way to learn from past mistakes is through honest and open discussion and reflection.

18. Dr Morgan-Rowe submitted that he is deeply disappointed in himself and sorry for his actions and the impact it has had on everyone involved. He stated he has worked hard in the subsequent years to be an exceptional physician as evidenced in the references received by senior colleagues.

#### **The Relevant Legal Principles**

19. In approaching its decision, the Tribunal was mindful of the two-stage process to be adopted: first, whether the facts as found proved amounted to serious misconduct and secondly, whether the doctor's fitness to practise is currently impaired by reason of that serious misconduct.

20. The Tribunal was mindful of the overarching objective of the GMC set out in section 1 of the Medical Act 1983 (as amended) to:

- a. *Protect, promote and maintain the health, safety and well-being of the public,*
- b. *Promote and maintain public confidence in the medical profession, and*
- c. *Promote and maintain proper professional standards and conduct for members of that profession.*

21. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by *Dame Janet Smith* in the *Fifth Shipman Report* adopted by the high court in *CHRE v NMC and Paula Grant [2011] EWHC 297 (Admin)*. In particular, the Tribunal



considered whether its findings of fact showed that Dr Morgan-Rowe's fitness to practise is impaired in the sense that he:

- a. *'Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. *Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

22. The Tribunal also considered the version of Good Medical Practice that was in force at the date of the Allegation, which included GMP 2006 as well as the most recent version of GMP 2013.

23. The Tribunal bore in mind that it must determine whether Dr Morgan-Rowe's fitness to practise is currently impaired by reason of misconduct, taking into account his conduct at the time of the events and any other relevant factors such as any development of insight, whether the matters are remediable or have been remedied and the likelihood of repetition.

### **Misconduct**

24. The Tribunal first considered whether the facts found proved are a sufficiently serious departure from the standards of conduct reasonably expected of Dr Morgan-Rowe as a registered medical practitioner, to amount to misconduct.

25. Throughout its deliberations, the Tribunal took account of the statutory overarching objective of protecting the public, which includes protecting the health, safety, and wellbeing of the public, maintaining public confidence in the profession, and promoting and maintaining proper professional standards and conduct for the members of the profession.

26. The Tribunal determined that Dr Morgan-Rowe's actions in submitting in timesheets that included a claim for hours that he had not worked and failing to provide accurate information during the ARCP was dishonest and therefore this amounted to misconduct.

27. The Tribunal noted that as a result of his dishonesty, Dr Morgan-Rowe had gained a financial advantage. The dishonesty was persistent and had been sustained over a period of time. Dr Morgan-Rowe had not stopped his behaviour of his own volition; rather, he stopped the dishonest behaviour when his actions were discovered.

28. The Tribunal concluded that, taking account of all the circumstances in this case, Dr Morgan-Rowe's conduct fell far below the standards expected of a doctor, and was contrary to GMP guidance. The Tribunal was in no doubt that the misconduct in this case was serious professional misconduct, regarding both the individual actions described in the paragraphs of the Allegation and taking the matter as a whole. It therefore concluded that Dr Morgan-Rowe's actions as set out in the Allegation amounted to misconduct which was serious.

### **The Tribunal's Determination on Impairment**

29. The Tribunal having found that the facts found proved amounted to serious misconduct, went on to consider whether, as a result of that misconduct, Dr Morgan-Rowe's fitness to practise is currently impaired.

30. In determining impairment, the Tribunal considered whether the misconduct could be remedied while noting that matters of dishonesty are difficult to remediate. It looked for evidence of insight, remediation and the likelihood of repetition and balanced those against the three limbs of the statutory overarching objective.

31. The Tribunal took into account that doctors occupy a position of privilege and trust. They are expected to act in a manner which maintains public confidence in them and in the medical profession and to uphold proper standards of conduct. The Tribunal recognised that dishonesty is a breach of a fundamental tenet of the profession. Being honest and trustworthy and acting with integrity are at the heart of medical professionalism.

32. The Tribunal acknowledged that Dr Morgan-Rowe had apologised, expressed deep regret and remorse for his actions and had actively pursued relevant external help to get a better understanding of his behaviour. It also noted the passage of time and the fact that no concerns had been raised either before or after these events. However, the Tribunal determined that this was a pattern of persistent dishonesty in two distinct and independent areas, and as such, Dr Morgan-Rowe had breached the profession's fundamental tenets on numerous occasions. While the Tribunal acknowledged that Dr Morgan-Rowe may have worked back the hours he claimed, it also considered the damage caused to the profession by submitting fraudulent timesheets on multiple occasions was significant and wide-ranging.

33. The Tribunal concluded that while it had been presented with some evidence of remediation and insight, both were incomplete. Although the Tribunal considered that the risk of repetition was low it was still present. Dr Morgan-Rowe expressed remorse and recognised that financial probity was essential. He had accessed appropriate resources to develop his insight for example having had three face-to-face coaching sessions in 2017 and maintaining contact with his training officer. Dr Morgan-Rowe said in evidence that his current preference is to run decisions past others in order not to be impulsive about decision making, but a key person that he identified as able to offer him this support is doing so on a voluntary basis and is not currently available to him. It may be that a wider network would assist in providing consistent support. The Tribunal had concerns that Dr Morgan-Rowe expressed in evidence that he had not considered attending a probity and ethics course but that he thought this would be helpful to him. He had accepted that he has not kept on top of his CPD record keeping and 360 feedback all of which have the potential to create problems for Dr Morgan-Rowe.

34. The Tribunal accepted Dr Morgan-Rowe's evidence as credible and his developing, mature, insights as genuine. However, the Tribunal have some concerns about the lack of formal support in place for him currently. Overall, the Tribunal determined that Dr Morgan-Rowe had made substantial progress towards insight and remediation but that both remained incomplete which is why there is a current risk of repetition.

35. The Tribunal considered that the overarching objective required a finding of impairment in order to promote and maintain public confidence in the profession and promote and maintain proper professional standards and conduct for the members of the profession.

36. Accordingly, the Tribunal determined that Dr Morgan-Rowe's fitness to practise is currently impaired by reason of his misconduct.

#### **Determination on Sanction - 02/11/2022**

37. Having determined that Dr Morgan-Rowe'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**

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

## Submissions

### On behalf of the GMC

39. On behalf of the GMC, Mr Fish, Counsel, submitted that the appropriate and proportionate sanction was suspension. He submitted that whilst Dr Morgan-Rowe had expressed genuine remorse and insight there was a little bit more work to do. He submitted that this was not a case that would justify no action to be taken. It was only in exceptional circumstances that no action would be considered. He submitted that undertakings had not been offered in this case, and it was difficult to apply appropriate conditions in a dishonesty case.
40. Mr Fish submitted that a suspension would have a deterrent effect. Doctors need to be deterred from acting dishonestly to maintain public confidence. He submitted that Dr Morgan-Rowe's case, where there had been two types of dishonesty repeated on multiple occasions, was serious but fell short of being incompatible with continued registration. He submitted Dr Morgan-Rowe had acknowledged fault and shown insight and reflection. Nevertheless, there had been a departure from the overarching objective that justified suspension.
41. Mr Fish submitted that there was no evidence of repetition of the misconduct. He submitted that this was not a case where it could be fairly said that Dr Morgan-Rowe was trying to cover up what he had done, as he had confessed to the Hospital and the police. Mr Fish submitted that it was for the Tribunal to decide whether the misconduct amounted to persistent dishonesty.

### Dr Morgan-Rowe

42. Dr Morgan-Rowe submitted that he understood the seriousness of his actions and accepted the Tribunal decision that this amounted to serious misconduct. He submitted that he was confident he could continue to remediate and in time alleviate those concerns. He submitted that he understood the GMC's position regarding the recommendation for a suspension.
43. He submitted that the experiences that he had been through since the events of 2012 had been traumatic and he will never forget them. The incident occurred a long time ago, he was in a very different place in his life, and he was a better person now. He submitted that he had engaged actively and openly with the investigations since all of this came to light. Since his dismissal, he had sought coaching and mentoring in an effort

to determine why he had acted in the way that he did. He submitted that he now continually reflected upon and analysed his decision-making processes. He submitted that he had shown that he had taken responsibility, been open to change, developed, reflected and learnt. He submitted that he wanted to continue to use his medical skills to help improve patients' lives.

44. Dr Morgan-Rowe submitted that he had been buoyed up and edified by the letters of support and encouragement he had received since the episode of dishonesty and the letters from Lister Hospital that highlighted his clinical contribution to the service. He submitted that being allowed to continue to practise was in the best interests of the patients.
45. Dr Morgan-Rowe submitted that there was a need for doctors with interventional radiology skills since this was a chronically undermanned speciality and asked the Tribunal to consider a short suspension. He submitted that he would undertake an ethics and probity course and upon returning to practice he would actively seek out formal mentoring and support. He submitted that he would continue to develop his wider support network and make it a priority to be better organised when it came to record keeping for his CPD and appraisal requirements. He expressed willingness to appear again before a Tribunal for a review if he were to be suspended.

### **The Tribunal's Determination on Sanction**

46. The decision as to the appropriate sanction, if any, to impose in this case is a matter for the Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken the Sanctions Guidance dated November 2020 ('SG') into account and borne in mind the overarching objective.
47. The Tribunal reminded itself that the reason for imposing any sanction is to protect the public and that sanctions are not imposed to punish doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Morgan-Rowe's interests with the public interest.

### Aggravating and Mitigating Factors

48. The Tribunal has already set out its decisions on the Facts and Impairment which it took into account during its deliberations on Sanction. Before considering what action, if any, to take in respect of Dr Morgan-Rowe's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

49. The Tribunal identified the following aggravating factors:

- The first incident of dishonesty was in 2012. This dishonesty was persistent as it had lasted for up to 14 weeks. The course of dishonest misconduct only ended because Dr Morgan-Rowe's actions were discovered by his managers.
- The Allegation does not reflect isolated incidents.

50. Having identified aggravating factors in this case, the Tribunal identified the mitigating factors to be:

- Dr Morgan-Rowe was a man of previous good character, against whom there had been no previous adverse GMC findings, nor any others since.
- Dr Morgan-Rowe had shown genuine insight and remorse.
- He had sought mentoring and support to address the root of the problem.
- The lapse of time since the incidents was significant, 10 years since the first incident and eight years since the second incident.
- Dr Morgan-Rowe offered to work without pay to make up the hours that he had overclaimed. The Tribunal had sight of a letter from his supervisor which confirmed that he had done this and in his view Dr Morgan-Rowe had worked considerably more hours than he had claimed for.

51. The Tribunal considered each sanction in ascending order of severity, starting with the least restrictive.

### **No action**

52. The Tribunal first considered whether to conclude the case by taking no action. The Tribunal was of the view that, having regard to the nature of the case, taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that there were no exceptional circumstances in this case and that, given the seriousness of its findings, it would not be sufficient, proportionate, or in the public interest to conclude this case by taking no action.

## Undertakings

53. Undertakings were not offered in this case so the Tribunal could not consider undertakings. In any event undertakings would not be sufficient, proportionate, or in the public interest.

## Conditions

54. The Tribunal next considered whether to impose conditions on Dr Morgan-Rowe's registration. It noted that dishonesty does not fall into the categories of misconduct identified in SG where conditions are likely to be appropriate. In light of Dr Morgan-Rowe's dishonesty, the Tribunal determined that it would be difficult to formulate appropriate and workable conditions. Even if conditions could be formulated the Tribunal was not satisfied that conditions would mark the seriousness of the misconduct.

## Suspension

55. The Tribunal then went on to consider whether imposing a period of suspension on Dr Morgan-Rowe's registration would be proportionate and sufficient to satisfy the overarching objective.
56. The Tribunal considered paragraphs 91, 92, 93, 97 (a), (e), (f) and (g) of SG to be particularly relevant to its consideration of suspension:

*'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 breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.*

...

*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.'*

57. The Tribunal considered the aggravating and mitigating factors it had identified.
58. The Tribunal bore in mind that there had been a lapse of time of 10 years since the first incident of dishonesty, for submitting timesheets that included a claim for hours that Dr Morgan-Rowe had not worked. The Tribunal considered the first incident of dishonesty to be persistent albeit for a relatively short time period of up to 14 weeks.
59. The Tribunal bore in mind that it had been eight years since the second incidents of dishonesty when Dr Morgan-Rowe failed to disclose the related criminal proceedings in his ARCP appraisals. The Tribunal considered this to be serious. Dr Morgan-Rowe had a positive duty to disclose this information and the duty was his own. The Tribunal accepted Dr Morgan-Rowe's evidence that he had been advised at the time not to disclose it by senior staff at the Trust. The Tribunal agreed with the GMC stance that this omission could not fairly be categorised as an attempt to hide the criminal proceedings. Dr Morgan-Rowe had been arrested at work, he had confessed what he had done to the police and his Hospital and he had sought the advice of a senior member of hospital staff on whether he needed to disclose the criminal proceedings.



60. During the lapse of time since the incident, Dr Morgan-Rowe had shown genuine remorse and insight, acknowledging what he had done was wrong. He had received mentoring and support to help him understand his actions and modify the behaviour pattern that led him to be dishonest. The Tribunal had found there was a low risk of repetition.
61. The Tribunal accepted Dr Morgan-Rowe's evidence that he has had the additional difficulty of having to live with the incident for such a long period of time and it had been a traumatic experience for him. Dr Morgan-Rowe had been tormented by seeing his peers fulfilling what were once joint professional milestones. He had to accept help from friends and family to pay for his legal fees. He had lost his doctor's training number and had been diverted from a vocational path into which he and others had put considerable resources. Dr Morgan-Rowe told the Tribunal that he felt the weight of the seriousness of what he had done during the criminal law proceedings. The Tribunal bore in mind that Dr Morgan-Rowe had acknowledged fault at every stage of this Tribunal hearing. He did not present as self-pitying. The Tribunal accepted that Dr Morgan-Rowe was aware of the detrimental impact his actions will have had on the profession. The Tribunal took into account that Dr Morgan-Rowe had conducted himself respectfully and thoughtfully throughout this hearing. Dr Morgan-Rowe had agreed to attend a review and had offered to attend an ethics and probity course.
62. The Tribunal considered the SG on erasure. It bore in mind the lapse of time and that Dr Morgan-Rowe had not attempted to cover-up his actions. There was no evidence before the Tribunal that there was a significant risk of repetition. The Tribunal was of the view that, while it had found that Dr Morgan-Rowe's actions did amount to a number of significant breaches of GMP, these breaches, taking account of the mitigation in this case, were not so serious as to constitute a fundamental incompatibility with continued registration.
63. The Tribunal determined that a sanction of erasure after such a long lapse in time would be a disproportionate outcome. A period of suspension would be sufficient to meet the aims of the overarching objective.
64. Having considered the sanctions in ascending order of restrictiveness and having determined to suspend Dr Morgan-Rowe's registration, the Tribunal went on to consider the length of the period of suspension.

65. In deciding on the period of suspension, it took into account the seriousness of his actions and the need to demonstrate clearly to Dr Morgan-Rowe, the profession and the public that his actions were unacceptable. In the Tribunal's consideration of the length of suspension, it particularly took into account the seriousness of Dr Morgan-Rowe's dishonesty. It considered that it was in the public interest to retain Dr Morgan-Rowe as a competent and clinically useful doctor.
66. The Tribunal determined to suspend Dr Morgan-Rowe's registration from the medical register for a period of six months. It was satisfied that such a period marked the seriousness of Dr Morgan-Rowe's misconduct and upheld the overarching objective to maintain public confidence in the profession and uphold proper professional standards.

### Review

67. The Tribunal determined to direct a review of Dr Morgan-Rowe's case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought. The Tribunal considered that the Dr Morgan-Rowe's remediation could be further developed during the suspension. Any future Tribunal may be assisted if Dr Morgan-Rowe provides:
- i. Evidence of completing an ethics and probity course and written reflection on what he had learnt following his attendance;
  - ii. Evidence that he had kept his medical knowledge and skills up to date; including relevant Continued Professional Development. Evidence should be written in a form that would assist Dr Morgan-Rowe in his future appraisals;
  - iii. Some evidence that he had tried to engage with a wider support network outside of clinical practice;
  - iv. Evidence that he had taken steps towards completing his clinical training;
  - v. Any other relevant evidence that Dr Morgan-Rowe considers will assist the reviewing tribunal.

### Determination on Immediate Order - 02/11/2022

68. Having determined that Dr Morgan-Rowe should be suspended from the medical register for a period of six months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Morgan-Rowe's registration should be subject to an immediate order.

## Submissions

69. Mr Fish submitted that an immediate order was not necessary and that it was a matter for the Tribunal to determine.
70. Dr Morgan-Rowe submitted that he was neutral as to whether an immediate order was imposed.

## The Tribunal's Determination

71. In reaching its decision, the Tribunal had regard to its previous determinations and submissions from parties.
72. The Tribunal had regard to the following paragraphs of SG:

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

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

73. The Tribunal balanced the interests of Dr Morgan-Rowe against those of the public; it took a proportionate approach. The Tribunal took into consideration that there had been no patient safety or clinical competence concerns and therefore Dr Morgan-Rowe was not a risk to patient safety. The Tribunal determined that an immediate order of suspension was not necessary to maintain public confidence in the medical profession.
74. This means that Dr Morgan-Rowe's registration will be suspended 28 days from when notice of this decision is deemed to have been served upon him, unless he lodges an appeal. If Dr Morgan-Rowe does lodge an appeal, he will remain free to practise unrestricted until the outcome of any appeal is known.

75. There is no interim order to revoke.