PUBLIC RECORD

Dates: 22/01/2026 - 30/01/2026

Doctor:	Dr Mark ELIAS
GMC reference number:	4313010
Primary medical qualification:	MB BCh 1996 University of Wales

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

Summary of outcome
Suspension, 6 months.

Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Gul Nawaz Hussain KC
Lay Tribunal Member:	Mr Mark O'Brien
Registrant Tribunal Member:	Dr Susan Ellerby

Tribunal Clerk:	Mr Sewa Singh

Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Mr Malcolm Fortune, Counsel, instructed by Manleys Solicitors
GMC Representative:	Mr Alex Mullen, Counsel

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

Overarching Objective

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

Determination on Facts - 27/01/2026

1. The Tribunal exercised its powers under Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (the Rules), to sit in private when the matters under consideration or heard as evidence were confidential. This determination will be handed down in private but as this case concerns Dr Elias' conviction, a redacted version will be published at the close of the hearing.

Background

2. Dr Elias graduated from University of Wales in 1996. He is as a Consultant Radiologist, currently working at The Christie NHS Foundation Trust ('the Christie'). At the time of the events, Dr Elias was working at the Christie in the role described.

3. The allegations that have led to Dr Elias' hearing can be summarised as follows: on 31 January 2025 at Chester Magistrates' Court, he was convicted of outraging public decency in that on 29 September 2024 he behaved in an indecent manner by performing sexual acts with another person in a public place; and on 28 February 2025, he was sentenced to eight weeks imprisonment suspended for 12 months, and a requirement to complete a Rehabilitation Activity of up to 20 days.

4. XXX

5. The matters came to the attention of the GMC when Dr Elias self-referred to the GMC in November 2024.

The outcome of applications made during the facts stage

6. The Tribunal refused an application by Mr Malcolm Fortune, Counsel for Dr Elias, made pursuant to Rule 41 of the GMC (Fitness to Practise Rules) 2004 as amended ('the Rules'), for the entirety of the hearing to be held in private. The Tribunal determined that those matters relating to XXX would be heard in private. Matters relating to the conviction were to be heard in public. The Tribunal's full decision on the application is set out in Annex A.

7. XXX

The Allegation and the doctor's response

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

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

1. On 31 January 2025 at Chester Magistrates' Court, you were convicted of outraging public decency in that on 29 September 2024 you behaved in an indecent manner by performing sexual acts with another in a public place.
Admitted and found proved

2. On 28 February 2025 you were sentenced to:

a. eight weeks imprisonment suspended for 12 months;
Admitted and found proved

b. a Rehabilitation Activity Requirement of up to 20 days.
Admitted and found proved

3. XXX

And that by reason of the matters set out above your fitness to practise is impaired because of your:

a. conviction as referred to at paragraphs 1-2;
To be determined

b. XXX

The admitted facts

9. At the outset of these proceedings, through his Counsel, Mr Malcom Fortune, Dr Elias admitted paragraphs 1 and 2 of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the 'the Rules'. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced the paragraphs of the Allegation as admitted and found proved.

The facts to be determined

10. In light of the admissions made, the Tribunal needed to consider the disputed allegations, as set out above.

Documentary evidence

11. The Tribunal was in receipt of documentary evidence provided by the parties to which it had regard. This included, but was not limited to, the following:

- Certificate of Conviction from Chester Magistrates' Court;
- The Pre-Sentence Report in Dr Elias' Court proceedings dated 26 February 2025;
- XXX
- A defence bundle which included:
  - XXX;
  - Dr Elias' Curriculum Vitae (CV);
  - Dr Elias' personal reflections on the matters which led to his conviction, dated 26 November 2025;
  - XXX;
  - Witness statement from Dr E, Executive Medical Director at The Christie NHS Foundation Trust ('the Christie') and Dr Elias' Responsible Officer, dated 20 October 2025.

Witness Evidence

12. The Tribunal received oral evidence from Dr E on behalf of Dr Elias.

13. Dr Elias gave oral evidence. The Tribunal also received his statement dated 26 November 2025

14. XXX

Doctor's Evidence

15. Dr Elias summarised his current role at the Christie. He explained how he had met the 'co-defendant' in a bar in Chester in the spring of 2024, when they established a friendship but not a relationship. On the day of the offending, Dr Elias explained that he and the co-defendant were on their way to Manchester to watch a cabaret show. He said that the plan was to go into Manchester and visit a few bars in the area colloquially referred to as the gay village before going on to the cabaret show. Dr Elias said that the train journey from Chester to Manchester is about an hour. Dr Elias said that it was the second or third time he had visited Manchester with the co-defendant. Dr Elias said that he could not recollect much of the train journey or getting into Manchester, suffice to say that whilst on the train journey, he had consumed two cans of gin and tonic.

16. Dr Elias was referred to a photograph of him sitting on the train opposite another person (the taker of the photograph being the co-defendant). In the photograph it can be seen that there are two plastic glasses both of which have liquid in them which are half full. There is also what appears to be a 70cl size bottle on the table of some drink, which Dr Elias accepted could be sparkling wine. Dr Elias said that he had only recently seen the photograph when the co-defendant posted it on his social media account. He added that after the offence, his friendship with the co-defendant had become estranged and he had terminated the friendship because it was not conducive XXX. Dr Elias said that posting the photograph on social media was one of the reactions from the co-defendant as a result of his terminating their friendship. Dr Elias reiterated to the Tribunal that he did not think he had more than two gin and tonics, and nor did he recall the sparkling wine. He said these drinks could have

been from or for a woman sitting at an adjoining table. The Tribunal noted that this was the first time Dr Elias had ever mentioned such an interaction.

17. Dr Elias said that when they got into Manchester he recalled going to a few bars before ending up in the XXX bar XXX, where he would have consumed more drinks. Dr Elias told the Tribunal that whilst he could not remember being at the bar or much of what happened in the bar, he did recollect a 'smoky' bottle being passed around and then held to his face to inhale. He said that he did not know what was in the bottle but given the subsequent events and the disproportionate memory loss, he felt that he had been spiked. On clarification, Dr Elias said that he thought both his drink and the smoky bottle were spiked. He added that he had flashbacks of being in the toilet of the bar and the smoky bottle being passed around, stating that he had no idea that whatever the substance in the bottle was that it could cause memory loss. Dr Elias said that he did not inhale the substance in the smoky bottle willingly. All he could remember was standing at the urinal and whilst his hands were occupied, and as he turned to see who had come into the toilet, the bottle was pushed into his face, and he inhaled the substance.

18. Dr Elias said that he first experienced the flashbacks when he was talking to his legal team that represented him in the criminal proceedings. He said he was told by the co-defendant the next day that they had engaged in XXX on the train. He said that he was shocked, in disbelief, ashamed and scared to think he could have behaved in that way, and he was worried about his future. Dr Elias said that he told his then legal team that he immediately felt he may have been spiked as there was no other explanation for his behaviour. He added that the only information as to what took place on the train was the information he had received from the co-defendant who in turn got the information from his friend who worked as a guard on the trains. Dr Elias said that he did not and could not explain why he did not report what had happened or that he feared he might have been spiked. He went on to say that the part of the reason was that he did not think anyone would do anything about it. He did not know why he had not sought medical advice or intervention due to his belief that he had been spiked. Dr Elias told the Tribunal that he has never lost control of his actions despite having consumed alcohol many times before, and so this was the only explanation for why he had behaved in such a way. XXX.

19. In relation to the criminal proceedings, he confirmed that he had pleaded guilty to the offence at Court. Dr Elias said that although there is no mention of 'spiking' in the pre-sentencing report (PSR) prepared by the probation service, he was sure he had mentioned it on several occasions. He explained that the report had been handed to him to read shortly before sentencing and that he had not really had a chance to check its contents properly and, therefore, had not realised that this was missing from the report. He added that the officer writing the report must have omitted it in error. He said that he would have mentioned spiking to the officer who wrote the pre-sentencing report. Dr Elias could not remember what was said in mitigation on his behalf. He said the same counsel was advocating for both him and for the co-defendant and so he could not remember much of what was said.

20. Dr Elias explained that he realised instantly that he needed to stop drinking alcohol. He told the Tribunal that XXX. He also drove to work which is another reason for him not to drink. XXX.

21. In response to Tribunal questions, Dr Elias said he could not say for certain whether it was his drink or the substance he inhaled that were spiked. He said that he did not think his drink on the train was spiked because the train journey from Chester to Manchester is relatively short, and there would have been no or a very small window of opportunity for his drink to be spiked then. He added that he was sober at the time of getting on the train. He said he had no memory of his drink being spiked but it was the only explanation for him inhaling the smoke later. He was adamant that he had not used recreational drugs before and would not have done so by free choice on the day.

22. Dr Elias' counsel, Mr Fortune, drew the Tribunal's attention to Dr Elias' prepared police statement in which he records that he felt he might have been the victim of spiking and this information would have been available to the author of the pre-sentencing report.

The Tribunal's Approach

23. The Tribunal accepted the Legally Qualified Chair's advice.

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

25. The Tribunal reminded itself that it must form its own judgment about the evidence presented to it.

26. The Tribunal was mindful that its task at this stage is to consider the evidence and submissions and make findings in relation to the factual allegations in dispute. Each paragraph of the Allegation has to be considered separately and in turn.

27. The Tribunal also reminded itself that rule 34(3) of the Rules provides as follows:

> *"34*
> …
> *(3) Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed."*

The Tribunal's Analysis of the Evidence and Findings

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

29. As paragraphs 1 and 2 of the Allegation have already been admitted and found proved, the Tribunal only needs to consider paragraph 3 of the Allegation.

30. Prior to considering this allegation, the Tribunal first considered the evidence presented in relation to the question of whether Dr Elias' drink had been spiked. Whether Dr Elias' drink or the substance which he inhaled was spiked is a matter of dispute between the parties. XXX

31. Dr Elias has told the Tribunal in his written and oral evidence that when he heard of his and the co-defendant's behaviour on the train, his immediate thought was that his drink must have been spiked otherwise he would not have allowed himself to behave in the way he did. He told the Tribunal that he did not consider seeking medical assistance despite this and did not consider it important to establish whether he had been spiked and whether there was any harmful substance in him.

32. In his prepared statement to the police, Dr Elias mentioned that he thought his drink had been spiked. Dr Elias could not specifically recall whether his counsel in the criminal proceedings made reference to the possibility of his drink or anything else being spiked during mitigation, but he believes that it was mentioned. The Tribunal has not been provided with a copy of an attendance note from his counsel (The Tribunal was told that counsel had not provided one) or a copy of the legal advisor's notes of the proceedings before the Magistrates. It was open to Dr Elias' legal team in these proceedings to have contacted counsel and the court to obtain these.

33. The only evidence before the Tribunal, aside from the brief entry detailing conviction and sentence at page 3 of the agreed bundle and Dr Elias' own vague recollection is the pre-sentence report prepared by the probation officer in the case. The report would have been prepared with the benefit of all of the available information, including Dr Elias' prepared statement to the police and, most importantly, an interview with Dr Elias. The author of the report has omitted to mention spiking in their report, even under the heading which begins 'Substance misuse'. The report, in terms, attributes Dr Elias' behaviour to the over consumption of alcohol.

34. XXX

35. XXX

36. XXX

37. XXX

38. XXX

39. XXX

40. XXX

41. Therefore the Tribunal concluded that a constant in this case has been XXX in the period before his offending. Also, but for its absence in the PSR which Dr Elias attributes to an error on the part of the author, the Tribunal concluded that the spiking of his drink has also been a constant from the first moment he learnt of his offending. Dr Elias maintained throughout his evidence that he thought his drink had been spiked because otherwise he would never have had inhaled the '*smoky substance'*.

42. During the closing submissions, Mr Fortune, after having taken instructions from his instructing solicitors and Dr Elias, clarified to the Tribunal that the defence case was not that Dr Elias' drink had been spiked, but rather that the *"smoky substance"* he inhaled was spiked; that it was that substance which led to Dr Elias' loss of memory and his acts which consequently led to his conviction.

43. XXX

44. The Tribunal found Dr Elias' evidence on the question of what and how he was "spiked" to be contradictory. XXX. During his evidence, Dr Elias asserted that his drink must have been spiked as that was the only explanation for him then going on to inhaling the "*smoky substance*". It was finally asserted and clarified during closing submissions that it was not Dr Elias' case that his drink had been spiked. The way in which Dr Elias inhaled the *"smoky substance"* also changed during the course of the hearing. From an initial impression that it was presented to him and he inhaled it changed to him being stood at a urinal, his hands occupied (the inference being such that he could not resist) and the bottle (having previously said it was a glass) being pushed into his face when he could not help but inhale.

45. In all the circumstances, the Tribunal concluded, on the balance of probabilities, that Dr Elias' drink was not spiked. The Tribunal then determined that it was more likely than not that Dr Elias had consumed significantly more alcohol than he could remember. This caused him to become disinhibited, and he voluntarily inhaled the *"smoky substance".* The Tribunal accepts Dr Elias would not have done so but for the amount of alcohol he had consumed., which led to his then inhaling the *"smoky substance".*

<u>Paragraph 3</u>

XXX

46. XXX

47. XXX

48. XXX

49. XXX

50. XXX

51. XXX

52. XXX

53. XXX

54. XXX

55. XXX

56. XXX

57. XXX

58. XXX

59. XXX

60. XXX

The Tribunal's Overall Determination on the Facts

61. The Tribunal has therefore made the following findings:

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

1. On 31 January 2025 at Chester Magistrates' Court, you were convicted of outraging public decency in that on 29 September 2024 you behaved in an indecent manner by performing sexual acts with another in a public place.
Admitted and found proved

2. On 28 February 2025 you were sentenced to:

a. eight weeks imprisonment suspended for 12 months;
Admitted and found proved

b. a Rehabilitation Activity Requirement of up to 20 days.
Admitted and found proved

3. XXX

And that by reason of the matters set out above your fitness to practise is impaired because of your:

a. conviction as referred to at paragraphs 1-2;
To be determined

b. XXX

Determination on Impairment - 29/01/2026

1. The Tribunal exercised its powers under Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (the Rules), to sit in private when the matters under consideration or heard as evidence were confidential. This determination will be handed down in private but as this case concerns Dr Elias' conviction, a redacted version will be published at the close of the hearing.

The Evidence

2. In reaching its determination, the Tribunal took into account all the evidence received during the facts stage of the hearing. This included Dr Elias' written and oral evidence, XXX, and Dr E, his responsible officer's evidence. The Tribunal also received at this stage of the hearing a bundle from Dr Elias which included two testimonials from his clinical colleagues XXX.

Submissions on Impairment

On behalf of the GMC

3. Mr Alex Mullen, counsel, said that the question as to whether Dr Elias' fitness to practise is currently impaired by reason of conviction XXX, is a matter for the Tribunal's judgement alone. He referred the Tribunal to the MPTS Guidance (effective 24 November 2025) around impairment and to associated documents. He submitted that the second and third limbs of the overarching objective were engaged in this case. He reminded the Tribunal that it must work its way through the MPTS Guidance and consider the seriousness of the facts found proved, the relevant context, how the doctor had responded to the concerns, and that a finding of impairment must be made on recognised grounds as set out in the MPTS Guidance.

4. In relation to seriousness, Mr Mullen reminded the Tribunal that Dr Elias was convicted, and received a custodial sentence, albeit suspended. He said that this was a serious departure from the standards set out in paragraph 81 of Domain 4 of Good Medical Practice (GMP) headed 'Trust and professionalism'. XXX. Mr Mullen submitted that Dr Elias' conviction was at the higher end of the spectrum of seriousness because of his actions which led to his conviction and because of the custodial sentence, albeit suspended.

5. Mr Mullen took the Tribunal through the relevant parts of the MPTS Guidance and the Guidance Introduction XXX. He went on to say that a consideration for the Tribunal will be the level of insight and remediation demonstrated by the doctor which may reduce the

risks identified. He added that while this case is not one of sexual misconduct in the broader sense, there is a sexual element involved. Mr Mullen acknowledged that Dr Elias has not been required to register on the sex offenders register. XXX.

6. Mr Mullen referred the Tribunal to the aggravating features stating that Dr Elias had shown a reckless disregard for professional standards and the Tribunal may find this feature is engaged. He added that Dr Elias was intoxicated at the time of the events which led to his custodial sentence. Mr Mullen said that the matters in this case were at the higher end of the spectrum of seriousness and that there would be an impact on public confidence in the medical profession and on maintaining professional standards.

7. Mr Mullen told the Tribunal that it may consider matters of a personal nature which included Dr Elias coming out as gay, XXX. He added that the Tribunal may take into account the lapse of time since the events of September 2024, and that Dr Elias is more settled now. However, he submitted that, as per the MPTS Guidance, a doctor's area of work, role and experience, including seniority, are all factors to be taken into account in assessing the impact of their behaviour on the second and third limbs of public protection.

8. Mr Mullen acknowledged that XXX. He reminded the Tribunal of Dr Elias' written and oral evidence, in particular, his personal reflections on the matters before the Tribunal. Referring to insight and remediation, Mr Mullen referred to the MPTS Guidance and submitted that evidence of insight and remediation will usually carry less weight and have less impact where the allegation is at the higher end of the spectrum of seriousness. He reminded the Tribunal of Dr Elias' evidence in respect of the spiking issue, and the Tribunal's finding at the facts stage that Dr Elias' drink had not been spiked. He added that Dr Elias gave a developing account of what occurred and sought to minimise his role and culpability.

9. Mr Mullen submitted that because of the conviction XXX, Dr Elias' fitness to practise is currently impaired, XXX. He added that the conviction element is engaged significantly when considering the questions of upholding and maintaining professional standards and maintaining public confidence in the medical profession. He said that the medical profession would be shocked and appalled if a finding of impairment were not made in this case. Mr Mullen said there was a need to mark the seriousness of Dr Elias' actions and his consequent conviction with a finding of impairment, and that whilst there was good evidence of insight and remediation, this did not go far enough to warrant a finding of no impairment.

<u>On behalf of Dr Elias</u>

10. Mr Fortune acknowledged that the Tribunal had a legal duty to protect the public, as set out in the three limbs of public protection. He too referred the Tribunal to the MPTS Guidance. He said that the Tribunal must make its own decision exercising its independent judgement as to Dr Elias' fitness to practise based on the admitted facts or those found proved.

11. Mr Fortune said that there was no suggestion that the offence to which Dr Elias pleaded guilty, namely outraging public decency, is anything other than a serious offence. He

said that this was clear from the sentencing imposed by the Magistrates. In entering a guilty plea, Dr Elias accepted that his standards fell seriously below those expected and so the defence did not seek to minimise the plea or the offence and conviction.

12. Mr Fortune said that Dr Elias recalled the events of the day of offending and once he realised what he had done, having seen CCTV footage and having the benefit of legal advice, pleaded guilty. However, Mr Fortune submitted that before pleading guilty, Dr Elias had informed his employer of what had happened and had self-referred to the GMC.

13. Mr Fortune told the Tribunal that Dr Elias was troubled by his personal issues and had sought appropriate support to address them, XXX.

14. Mr Fortune acknowledged that Dr Elias is in a senior position though he is not the lead for his department. He added that Dr Elias accepted that his behaviour had brought his professional colleagues into disrepute and has sought to remediate and address that rather than minimise the seriousness of it. XXX. He reminded the Tribunal of Dr E's evidence adding that Dr Elias had been allowed to return to his role as a consultant clinical radiologist. Further, Mr Fortune submitted that there has been no repeat of the events which led to the conviction, nor have there been any complaints about Dr Elias or his clinical practice.

15. Mr Fortune submitted that the insight Dr Elias has shown and the steps he has taken to remediate his behaviour cannot be under-estimated, as suggested by the GMC. He referred the Tribunal to Dr Elias' personal reflections, adding that the reflections are of a high quality and Dr Elias recognised the difficulties he has faced and the consequences of his behaviour. Mr Fortune said that Dr Elias is still held in high esteem by his professional colleagues, particularly his clinical team at The Christie. He reminded the Tribunal that Dr Elias' role includes his involvement in advanced research into cancer and treatment planning. He said Dr Elias has no previous adverse history with the GMC. He reminded the Tribunal of Dr E's evidence that Dr Elias posed no risk to patients especially given that his clinical role has little to no face-to-face contact with patients.

16. Mr Fortune submitted that there are no features present which could increase the seriousness of the offence and akin to what might be described by the Magistrates as aggravating features. He said that even if the Tribunal decided that impairment was made out on the second and third limbs of the public protection, this did not necessarily lead to a conclusion that, in this case, suspension of Dr Elias' registration is the appropriate outcome.

17. XXX

18. Mr Fortune acknowledged that it was more likely than not that the Tribunal will find impairment on the grounds of conviction, XXX.

The Relevant Legal Principles

19. The parties agreed (and The Tribunal so proceeds) that the question of impairment was one of judgement to be exercised by The Tribunal. There was no standard or burden of proof.

20. The Tribunal considered section 35C(2)(c) and (d) of the Medical Act 1983, which in summary provides that conviction XXX are each possible grounds for impairment.

21. The Tribunal must determine whether Dr Elias' fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition. It should also consider whether a finding of impairment is warranted taking into account the wider public interest.

22. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Grant*. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

> *'..the tribunal should consider whether the findings of fact in respect of the doctor. ... show that his 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.'*

The Tribunal's determination on impairment

The Tribunal's approach

23. Throughout its deliberations, the Tribunal bore in mind the statutory overarching objective: to protect and promote the health, safety and wellbeing of the public; to promote and maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of the medical profession. It also had regard to the MPTS Guidance.

24. There is no burden or standard of proof at this stage of the proceedings and the decision of impairment is a matter for the Tribunal's judgment alone. The Tribunal will only make a finding of impairment where there is a legal basis for doing so and where a decision is reached that the doctor poses a current and ongoing risk to one or more of the three parts of public protection which is likely to require restrictive action in response. The three parts of public protection are:

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

25. To assess whether Dr Elias poses any current and ongoing risk to public protection which may require restrictive action in response, the Tribunal will consider:

- where on the spectrum of seriousness the allegation lies, based on the facts found proved,
- the impact of any relevant context known about Dr Elias and/or their working environment, and
- how Dr Elias has responded to the allegation.

26. The Tribunal had regard to paragraph 130 of the MPTS Guidance which states: *'130. If there is more than one legal basis for considering the doctor's fitness to practise an assessment of current and ongoing risk must be made in respect of each of* them'. As the allegations fall under more than one ground for impairment, an assessment of current and ongoing risk to public protection will be made in respect of each.

27. The Tribunal first considered the matters relating to Dr Elias' conviction.

Conviction

Background to the 'the relevant offence'

28. Dr Elias' conviction related to his actions on 29 September 2024 when he behaved in an indecent manner by performing sexual acts with another in a public place. This was the relevant offence.

29. The Tribunal notes that Mr Fortune recognises that the conviction coupled with the sentence could well cause The Tribunal to place it at the higher end of the spectrum of seriousness.

30. The brief facts of the relevant offence are that on 29 September 2024, Dr Elias and another ('the co-defendant') boarded the train from Chester to Manchester to watch a cabaret show. On the train, both Dr Elias and the co-defendant consumed alcohol. They then went to a few bars in the area colloquially referred to as the gay village before watching the cabaret show. Prior to doing so, they visited the XXX Bar also in the same area. In this bar, Dr Elias inhaled a "*smoky substance*" in a bottle thrust or pushed into his face. The Tribunal has previously found that Dr Elias had voluntarily consumed too much alcohol such that he became disinhibited. It was in this condition that he inhaled the substance, something he would not have done otherwise. Following the cabaret show they boarded the train from Manchester to Chester. On the return journey, they proceeded to commit sexual acts XXX

with each other repeatedly throughout the entire journey (approximately 1 hour) in full view of other passengers on board the train. They were warned by the conductor on board the train about their behaviour which they then ceased.

31. The Tribunal had regard to the certificate of conviction from Chester Magistrates' Court, dated 25 March 2025. Dr Elias entered a guilty plea at his court hearing. The Tribunal was satisfied that the facts in this case relating to the relevant offence are supported by the documentary evidence.

The MPTS Guidance on impairment: Steps 2A to 2E

32. The Tribunal considered each of the steps in the MPTS Guidance.

Step 2A: legal basis for considering impairment

33. The Tribunal was satisfied that, this being a case of conviction, there was a legal basis for consideration of impairment.

Step 2B: spectrum of seriousness

34. The Tribunal considered that this was a conviction for a serious offence, which attracted a custodial sentence albeit suspended.

35. It noted in the certificate of conviction it states:

> *'SUSPS – Suspended sentence order – imprisonment committed to prison for 8 Weeks suspended for 12 Months. Reason: the offence(s) are so serious that only a custodial sentence can be justified. Reason for custody: A prolonged sexual act on a public train. The defendant must comply with the requirements within the supervision period. In the event of activation of sentence: 0 bail remand days to count. Total custodial period 8 Weeks. Supervision period: 12 Months. The custodial sentence has been suspended because The defendant was of previous good character and the bench deemed him to have a realistic prospect of rehabilitation. Reason for sentence without PSR: full PSR available to sentencing bench.*
>
> *RAR - Rehabilitation activity*
> *Rehabilitation Activity Requirement: Offender to comply with any instructions of the responsible officer to attend appointments (with the responsible officer or someone else nominate be them), or to participate in any activity as required by the responsible officer up to a maximum of 20 Days.*
>
> *GPTAC - Guilty plea taken into account Defendant's guilty plea taken into account when imposing sentence.'*

36. In the Tribunal's judgement, the behaviour that led to Dr Elias' conviction amounted to a breach of Domain 1 of GMP, which states at paragraph 4: *'You must follow the law ….'*.

37. The Tribunal found paragraph 38 of the General introduction to the MPTS Guidance, in particular, to be engaged:

> *'Doctors must follow the law and so behaviour that leads to a criminal conviction … can undermine public confidence, including some behaviours arising outside a doctor's professional practice. A doctor's behaviour can undermine the public's trust in the profession and impact on public confidence in the following circumstances:*
>
> - *where the specific nature of behaviour in a doctor's private life indicates a high level of seriousness'*

38. In the Tribunal's judgement, the behaviour that led to Dr Elias' conviction also amounted to a breach of Domain 4 of GMP, which states in the 'Introduction' section and in paragraph 81:

> *'Introduction*
>
> *Patients must be able to trust medical professionals with their lives and health, and medical professionals must be able to trust each other.*
> *Good medical professionals uphold high personal and professional standards of conduct. They are honest and trustworthy, act with integrity, maintain professional boundaries and do not let their personal interests affect their professional judgements or actions.*
>
> *Acting with honesty and integrity*
>
> *81 You must make sure that your conduct justifies patients' trust in you and the public's trust in your profession.'*

39. The Tribunal found the following paragraphs of the MPTS Guidance, in particular, to be engaged:

a) Paragraph 26: a departure from professional standards which breaches "*fundamental tenets of the profession"* such as failing to act with integrity, and "*uphold the law"*. ….. and

b) Paragraph 31: *"…indecency …"* and "*a criminal conviction … resulting in a custodial sentence (whether immediate or suspended)"*

40. The Tribunal took into account that Dr Elias was an experienced consultant who would know the professional standards expected of doctors.

41. Having regard to all the circumstances of the relevant offence, as set out above, the Tribunal concluded that Dr Elias' conduct had seriously departed from these fundamental tenets of the medical profession.

42. Therefore, the Tribunal considered that the starting point for its assessment of the seriousness of the conviction was that it was at the higher end of the spectrum of seriousness. The Tribunal had regard to paragraph 31 of the MPTS Guidance which sets out allegations which usually fall at the higher end of the spectrum of seriousness.

43. The Tribunal next considered whether there were any features increasing the seriousness of the allegation, and the seriousness of the doctor's departure from professional standards. The Tribunal was alert to the risk of double counting matters already considered when determining the seriousness of the offence. It considered that the following point listed in paragraph 36 of the MPTS Guidance is applicable: *'A reckless disregard for patient safety or professional standards'* was an additional feature increasing seriousness.

44. In the specific circumstances of this case, the Tribunal was satisfied that the seriousness of the allegation is increased because it involved acts of indecency, and a reckless disregard for patient safety or professional standards. Consequently, and in accordance with paragraph 43 of the MPTS Guidance, the Tribunal's assessment of the seriousness of the conviction is that it remains at the higher end of the spectrum.

45. Having regard to paragraph 44 of the MPTS Guidance it follows that the starting point for assessing the current and ongoing risk to public protection is high. Paragraph 44 states:

> *'In all cases where the allegation falls at the higher end of the spectrum of seriousness, the starting point for assessing current and ongoing risk to public protection will be high. Evidence of relevant context known about the doctor and/or their working environment and evidence of how the doctor has responded to the concern that decrease risk, will usually have less impact and carry less weight. This is because the risk to public protection arising from allegations at the higher end of the spectrum of seriousness are generally more difficult to mitigate and address.'*

46. Considering all the circumstances and having regard to its conclusions at Steps 2A-2B above, the Tribunal ultimately had to consider whether Dr Elias posed any current and ongoing risk to public protection when making its decision on impairment.

Step 2C – Relevant context

47. The Tribunal had regard to paragraph 45 of the MPTS Guidance which asks the Tribunal to consider *'What is the impact of any relevant context known about the doctor and/or their working environment?'* It considered whether this had any effect on its assessment that the allegation was at the higher end of the spectrum of seriousness.

48. XXX

49. XXX

50. The Tribunal noted paragraphs 70 – 73 of the MPTS Guidance 'Assessing the impact of personal context'.

51. The Tribunal was satisfied from the evidence before it that Dr Elias, XXX. In the circumstances, it considered that this relevant personal context did not decrease the seriousness of the conviction or the level of current and ongoing risk to public protection posed by the doctor.

Step 2D – How the doctor responded to the allegations

52. The Tribunal considered the question of insight and whether Dr Elias had demonstrated any insight into the concerns in this case. Paragraph 74 states:

> *'How has the doctor responded to the allegation(s)?*
>
> *74. The MPT should consider the evidence available to them to establish if the doctor has:*
>
> *a. shown insight into their own practice, behaviour and/or impact of a health condition*
> *b. taken steps which have reduced the risk of similar allegations occurring again (remediation), such as participating in training, supervision, coaching or mentoring relevant to the allegation, …..*
> *c. kept their knowledge and skills up to date.'*

53. XXX. The Tribunal has already received evidence which demonstrates that Dr Elias fully understands the gravity and consequences of his actions.

54. XXX

55. XXX

56. Throughout his oral evidence, Dr Elias maintained that he had ceased drinking XXX. This evidence was unchallenged by the GMC.

57. Paragraphs 76 and 77 require the Tribunal to consider insight and remediation. Paragraph 77 states:

> *'Insight*
> *Does the doctor understand what happened and accept how they could have acted differently?*
> *Remediation*
> *Is the allegation remediable?*
> *Has the allegation been remedied?*
> *Is the allegation likely to be repeated?'*

58. The Tribunal noted the letter from Dr E, dated 20 October 2025. Dr E states:

'In my capacity as Executive Medical Director of The Christie NHS Foundation Trust and as Dr Elias's Responsible Officer, I have oversight of his professional conduct, appraisal, and revalidation. Dr Ellias has been fully compliant with the requirements related to appraisal and revalidation and is an experienced and skilled appraiser. Dr Elias self-reported to me immediately after his arrest on 18th November 2024. I have been closely involved in monitoring his progress and compliance with regulatory and disciplinary requirements since. I can confirm that Dr Elias has fully cooperated with all aspects of the disciplinary process and has demonstrated a high level of engagement with remediation and support mechanisms.'

And:

XXX

The panel recognised that the incident was out of character [XXX]…'

And then:

'd) Additional Comments

I would like to emphasise that Dr Elias has shown exceptional commitment to his rehabilitation and professional responsibilities. He has taken every opportunity to reflect, learn, and grow from this experience. His conduct since the incident has been exemplary, and he continues to contribute meaningfully to the Trust's clinical services. With the support structures now in place, I am confident in his ability to practise to a high professional standard and uphold the values expected of a Consultant at The Christie.'

59. The Tribunal had regard to paragraphs 81 – 85 of the MPTS Guidance.

60. It was satisfied that all of the bullet points listed under paragraph 81 applied in this case, except, in relation to the first bullet point 'considered the allegation, understanding what went wrong and accept they should have acted differently'. The Tribunal was concerned that Dr Elias did not appear to fully accept the reckless nature of his excessive drinking on the train journey from Chester to Manchester and thereafter. It noted that he did not accept the bottle of what appears to be sparkling wine in the photograph taken on the train was being consumed by his co-defendant and him. Dr Elias also maintained for a significant period of time that his drink at some point before he inhaled the smoke must have been spiked. Indeed, he asserted this in evidence only for it to be withdrawn by his counsel at the end of his closing submissions during the 'Facts Stage'.

61. The Tribunal had regard to paragraphs 92 and 93 of the MPTS Guidance. These states:

'92. In many cases, evidence of complete or well-developed insight will have the impact of decreasing the level of current and ongoing risk to one or more of the three

parts of public protection posed by the doctor. However, where the allegation falls at the higher end of the spectrum of seriousness and therefore the starting point for assessing current and ongoing risk to public protection is high, the impact of insight and remediation and the weight it carries may be less because the risk to public protection arising from these concerns is generally more difficult to address.

93. In some circumstances, it may be reasonable to conclude that a doctor lacks genuine, or any, insight. This may be because there is evidence they have:

….

- *provided an explanation after the event in which they have tried to minimise their own role or culpability, or otherwise sought to blame others*

….'

62. The Tribunal was satisfied that Dr Elias has demonstrated good insight into the concerns arising from his behaviour that led to his conviction. As set out above in this determination, Dr Elias has fully recognised that his actions on 29 September 2024 were wrong, as well as the actual and potential consequences of his actions. He further recognised the seriousness of his conviction and the impact that may have on the public confidence in the profession. Dr Elias has also provided objective evidence of the steps he has taken to mitigate XXX which contributed to the offence. The Tribunal considered that Dr Elias had a good level of insight.

63. However, the Tribunal recognised that Dr Elias' behaviour which led to his conviction was a result of his own recklessness of drinking an excessive amount of alcohol on 29 September 2024, and that he attempted to minimise and deflect the seriousness of his actions by stating that his drink had been spiked.

64. The Tribunal was of the view, taking all of the evidence into account, the weight of evidence of insight is not such as to justify a reduction from the higher end of the spectrum of seriousness.

65. The Tribunal then had regard to paragraph 95 of the MPTS Guidance which deals with remediation. The Tribunal has already identified two factors which it considered did not decrease the seriousness of Dr Elias' conviction: namely, that he is an experienced consultant, and that he consumed excessive amounts of alcohol on 29 September 2024.

66. The Tribunal considered paragraphs 95 - 101 of the MPTS Guidance, particularly, paragraph 99 which sets out eight bullet point examples of remediation. It identified that, with the exception of bullet points 5 and 8 which do not apply in this case, the steps taken by Dr Elias met all of the other examples listed.

67. The Tribunal has been provided with oral character evidence in the form of Dr E's evidence (as already set out above), two testimonies from Dr Elias' clinical colleagues, and a report from Dr G.

68. Dr H, Consultant Musculoskeletal Radiologist, in his letter of 28 January 2025 states:

'Mark first informed me of the offence he committed, on the 13th November 2024. Conversing with Mark, it is clear to me he is distressed and remorseful about the offence. He has made me aware of steps he has taken since. He has informed the professional bodies he is accountable to, such as the General Medical Council and Medical Directors at the institutes he works at. [XXX]

I do not condone the offence that Mark committed, and am aware that it was his own flaws and bad judgement that put him in this situation he has found himself in. I believe it has been Mark's personal struggles, [XXX] that has led to this offence, which in my opinion are totally out of character. He is without a doubt a good man, with a good heart, compassion and willing to go the extra mile to continue to help others, as he has always done.'

69. Dr I, Consultant Radiologist and Nuclear Medicine Physician at the Christie, in his letter dated 8 September 2025 states:

'Mark has been proactive in his rehabilitation. [XXX]. Throughout this process, he has been open and honest with colleagues and, since returning to work, has strengthened his support network within the workplace. He has engaged actively with the probation services and has successfully completed the requirements of his probation. Please also refer to the probation report with regards to this matter.'

and

'The unfortunate public incident that he was involved in was totally out of character. Mark has expressed deep regret and remorse. He feels he has let himself, his colleagues and his family down. He has reflected on the event and the factors that could have contributed to this. He has taken time off work and since the event has been actively and successfully addressing relevant personal and behavioural issues.'

Significantly, he also states

'*I do not condone the offence that Mark committed, and am aware that it was his own flaws and bad judgement that put him in this situation he has found himself in*.'

70. The Tribunal found these words of Dr Elias' friend and colleague to perfectly encapsulate what happened. The Tribunal notes that it is this stark acceptance that Dr Elias has had some difficulty accepting e.g. minimising his level of drinking on the train and in contending that his drink had been spiked.

71. XXX

72. In accordance with paragraphs 106 and 107 of the MPTS Guidance, The Tribunal assessed the impact of remediation, in particular, whether the allegation is easily remediable, been remedied or is being remedied, and is it highly unlikely to be repeated.

73. At paragraph 109, the MPTS Guidance sets out features which can make it more difficult to remediate. These are:

- there is a high risk of harm to patients due to the doctor's deliberate, reckless, persistent, or repeated behaviour
- the nature of, or circumstances giving rise to, the allegation suggests there is an underlying issue with the doctor's attitude, and/or
- the allegation falls at the higher end of the spectrum of seriousness and is capable of damaging public confidence in the professions.

74. The Tribunal has taken into account all of the evidence presented to it in relation to insight and remediation. The Tribunal acknowledges that Dr Elias has demonstrated evidence of insight. In relation to remediation, he has done all he can to address XXX which led to his conduct which consequently led to his conviction. However, the Tribunal considered that his conviction is difficult to remediate due to the nature of his actions on 29 September 2024, which it has determined fall at the higher end of the spectrum of seriousness. The Tribunal is confident, however, that the risk of Dr Elias repeating his conduct which led to his conviction is highly unlikely.

75. The Tribunal had regard to paragraph 134 of the MPTS Guidance, which states:

> *'In cases where the allegation falls at the higher end of the spectrum of seriousness, the starting point for assessing current and ongoing risk to public protection will be high. Evidence of relevant context that decreases risk and evidence of insight and remediation that decreases risk may have less impact and carry less weight because these types of allegations can be more difficult to remediate. Evidence of the doctor having kept their knowledge and skills up to date may also be less relevant. This should be considered by the MPT when they are reaching a view on risk and a conclusion that the doctor poses a current and ongoing risk to one of more of the three parts of public protection requiring restrictive action in response may be needed, particularly as the allegation is likely to engage public confidence. '*

76. The Tribunal considered each of the three limbs of public protection.

77. As to the first limb, patient safety, it was an agreed position by both parties that this was not engaged in the circumstances of this case. The Tribunal agreed and did not go on to consider this.

78. As to the second limb, public confidence, the Tribunal concluded that public confidence was engaged, in light of the conclusions it had reached at Steps 2A-2D.

79. As to the third limb, professional standards, the Tribunal considered this limb, also to be engaged: and reminded itself of its earlier conclusion that Dr Elias' actions represented a serious departure from professional standards.

80. In all the circumstances, the Tribunal concluded that the current and ongoing risk to public protection posed by Dr Elias is high in relation to his conviction such that his fitness to practise is impaired.

XXX

81. XXX

82. XXX

83. XXX

84. XXX

85. XXX

86. XXX

87. XXX

88. XXX

89. XXX

90. XXX

91. XXX

Determination on Sanction - 30/01/2026

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

2. The Tribunal exercised its powers under Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (the Rules), to sit in private when the matters under consideration and heard as evidence were confidential. This determination will be handed down in private due to the confidential nature of some of the matters. However, as this case concerns Dr Elias' conviction, a redacted version will be published at the close of the hearing.

The Evidence

3. The Tribunal has reviewed its findings at the facts and impairment stages and taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

Submissions on Sanction

For the GMC

4. Mr Alex Mullen, Counsel, submitted that XXX. However, Mr Mullen submitted that the Tribunal having found impairment by reason of conviction, now needed to consider the appropriate sanction. He said that the Tribunal should consider each possible sanction in turn starting with the least restrictive, applying proportionality. He added that the Tribunal's findings at the facts and impairment stages may be relevant as is the seriousness of the risks to public protection identified by the Tribunal.

5. Mr Mullen referred the Tribunal to the sanctions banding as set out in Part C of the MPTS Guidance. Mr Mullen submitted that this is a case where a suspension at the high end of around 12 months is appropriate. He reminded the Tribunal that at paragraph 80 of its determination on impairment, it found the current and ongoing risk to public protection posed by Dr Elias to be high in relation to his conviction. Further, he submitted that the Tribunal had found that the seriousness of Dr Elias' conviction increased due to his reckless behaviour and his reckless disregard for professional standards. Mr Mullen said that it was necessary to take the appropriate action and, in this regard, the Tribunal may be assisted by the section in the MPTS Guidance dealing with sanction, as well as the associated document which sets out the case type. He acknowledged that a sanction restricting a doctor's practice can be punitive though it is not designed to be, and can have a deterrent effect. He referred the Tribunal to paragraph 44 of Section C of the MPTS Guidance and said that the Tribunal may find this useful having found that the last two limbs of public protection were engaged in this case. Mr Mullen submitted that a sanction of suspension is necessary to uphold and maintain professional standards in the medical profession and to maintain public confidence in the medical profession. He acknowledged this was not a sexual misconduct case in the strict sense and the Tribunal may find that this did not apply.

6. In relation to the length of any order, Mr Mullen submitted that the period should be for the maximum period allowed of 12 months. He referred the Tribunal to the table set out at paragraph 61 which sets out sanctions bandings which might be applicable to specific case types. He drew the Tribunal's attention to the row which deals with cases involving conviction and to the column which indicates a sanction of suspension for 12 months to erasure.

7. Mr Mullen acknowledged that Dr Elias has shown good insight and that this will be relevant in determining proportionality, but reminded the Tribunal that it had found the conviction to be difficult to remediate. He said that it was right to say that the testimonials provided on behalf of Dr Elias, and to which the Tribunal had regard in its determination on impairment, were impressive. However, he said that, in accordance with paragraph 72 of the MPTS Guidance, these may have less impact in terms of assessing the appropriate sanction.

8. Mr Mullen then touched upon the question of an immediate order, though he acknowledged this would usually form a separate stage. Mr Mullen submitted that in the circumstances of this case, the GMC seeks an immediate order. He said that if the Tribunal decide to impose a sanction of conditions, then an immediate order of conditions was sought; and if it decided to impose a sanction of suspension or erasure, then an immediate order was sought. He reminded the Tribunal that Dr Elias was still subject to his suspended sentence with one month remaining. Mr Mullen submitted that a member of the public would be confused and shocked if Dr Elias were permitted to return to unrestricted practice.

9. Mr Mullen invited the Tribunal to impose a sanction of suspension on Dr Elias' registration.

For Dr Elias

10. Mr Malcom Fortune, Counsel, told the Tribunal that when looking at the events of 29 September 2024, it cannot be ignored that in the background there is XXX, bearing in mind what was happening in Dr Elias' life at that time. XXX.

11. Mr Fortune referred the Tribunal to paragraph 43 of its determination on impairment where it described Dr Elias' consumption of alcohol as showing a reckless disregard for the professional standards expected of a doctor. XXX. He reminded the Tribunal of its paragraph 62 where it recognised that Dr Elias had good insight.

12. Referring to the table set out at paragraph 62 of the MPTS Guidance, Mr Fortune submitted that there had to be a degree of proportionality applied not just to the amount of work carried out by Dr Elias but the insight he had shown and which the Tribunal had accepted. He added that whist conviction was difficult to remediate, it was how Dr Elias had approached it and tried to recognise the seriousness of what he did on 29 September 2024.

13. Mr Fortune accepted that conviction of itself was serious. He said, however, that the whilst the banding may indicate a higher period of suspension, it was submitted that measurable, workable and proportionate conditions could be formulated in the circumstances of this case. He reminded the Tribunal that conditions had been in place on Dr Elias's registration since 18 March 2025 and there was no suggestion he had come anywhere close to breaching them. XXX. He added that there are no concerns about Dr Elias' clinical practice, and he undertakes little to no patient facing work. Mr Fortune submitted that the only real risk then is to maintaining professional standards and to maintaining public confidence in the medical profession.

14. Mr Fortune said that if the conviction were a stand-alone matter, then one reading the Tribunal's determination may find it strange that conditions had been imposed, however, this was an offence with a background XXX. He said it was not as simple as putting into one compartment the conviction XXX. Mr Fortune submitted that despite the conviction being at the higher end, as set out in the table, it was possible to come away from that and impose a period of conditions.

15. In relation to the length of any such order, Mr Fortune submitted that it had been almost ten months since Dr Elias' registration had been subject to restrictions. He said that there was bound to be a review hearing and, therefore, any period not extending beyond 2026 would be appropriate.

16. In conclusion, Mr Fortune reminded the Tribunal that Dr Elias worked in a niche area of clinical practice and was a very important part of the team he works with. Mr Fortune added that if Dr Elias was suspended, this would almost certainly lead to his dismissal and he would be difficult to replace. He said that whilst in a case such as this, XXX, a period of suspension may be necessary, the imposition of suspension will have a marked effect on him and his ability to earn a living, and would be punitive.

17. Mr Fortune invited the Tribunal to impose a period of conditions.

18. In relation to an immediate order, Mr Fortune accepted that whether the Tribunal decided to impose conditions or suspend Dr Elias' registration, an immediate order would follow. He said that he had not been in any Tribunal inquiry where an immediate order was not imposed.

The Tribunal's Approach

19. The Tribunal was reminded that the decision as to the appropriate sanction, if any, to impose was a matter for its independent judgement which it must exercise fairly, starting with the least restrictive.

20. The Tribunal had regard to the relevant sections of the MPTS Guidance.

21. The Tribunal was mindful that the purpose of a sanction is not to be punitive, although a sanction may have a punitive effect on a doctor.

22. The Tribunal reminded itself that, in determining whether to impose a sanction and if so, which, it should have regard to the principle of proportionality and should start by considering the least restrictive option. In had regard to paragraph 7 set out in the 'Introduction' section of the MPTS Guidance which states:

> *'Being proportionate*
> *7. To be proportionate, a tribunal must ask themselves, in the context of the individual case and decision being made, what is required and no more than necessary to meet the GMC and MPTS' legal duty to protect the public in a timely way. To assess what is proportionate, tribunals should be clear on the options available to them.'*

23. The Tribunal reminded itself that the reputation of the medical profession as a whole is more important than the interests of an individual doctor: *Bolton v Law Society [1993] EWCA Civ 32*.

The Tribunal's Determination on Sanction

24. The Tribunal was mindful that there was common ground between the parties that given the Tribunal's findings at stage 2 of the proceedings, a period of suspension was the appropriate and proportionate sanction in a case involving a conviction such as this. Mr Fortune clarified and conceded, in response to a question by the Tribunal, that given Dr Elias had received a custodial sentence, suspended for 12 months, that it would be difficult to argue against a sanction of suspension if that was all that there was to the case. However, he submitted when the Tribunal took into account all of the other features in this case, XXX, there was sufficient to allow The Tribunal to properly find that a period of conditional registration would be workable and proportionate.

25. Throughout its deliberations, the Tribunal had regard to the statutory overarching objective to protect patients set out in section 1 of the Medical Act 1983:

a. to protect, promote and maintain the health, safety, and wellbeing of the public
b. to maintain public confidence in the profession
c. to promote and maintain proper professional standards and conduct for members of the profession

26. The Tribunal also had regard to the table set out at paragraph 62 of the MPTS Guidance – 'sanctions banding' in its consideration.

Case type	Lower level of risk to public protection	Medium level of risk to public protection	Higher level of risk to public protection
Convictions, ….	Conditions up to 12 months to Suspension up to 3 months	Suspension 6 to 12 months	Suspension 12 months to Erasure

27. The Tribunal determined that it should consider sanctions in ascending order of severity in relation to Dr Elias' conviction.

28. The Tribunal was mindful of Dr Elias' written and oral evidence, as well as the testimonial evidence. It took into account Dr Elias' further reflections on his conviction and his expression of regret, remorse, his apology, and his acceptance of his actions that led to his conviction. However, as found by the Tribunal, Dr Elias did not accept that it was his excessive alcohol consumption alone on 29 September 2024 which led to the events which then followed. He recognises the seriousness of his actions on 29 September 2024 and his consequent conviction.

29. The Tribunal took into account that Dr Elias XXX. Further, there was evidence of more detailed reflection and learning in relation to the steps he has taken to address his excessive

use of alcohol which was a significant contributory factor to his actions on 29 September 2024. XXX.

30. The Tribunal took into account that it had found at paragraph 30 of its determination on impairment that Dr Elias voluntarily consumed too much alcohol such that he became disinhibited. Further, XXX contributed significantly to his actions on 29 September 2024.

31. The Tribunal was mindful of bullet point 2 under paragraph 10 of the MPTS Guidance. This states:

> *'….*
> *When considering the impact on those affected by the decision, the interests of individual patients and members of the public may include the impact that taking a specific type of action is likely to have on the delivery of health services in a particular speciality or within a defined geographical location. However, whilst there may be a public interest in facilitating a doctor's return to safe practice, the decision on what sanction is required needs to reflect the level of current and ongoing risk to one or more of the three parts of public protection that has been identified, and which takes into account the seriousness of the allegations, and must be consistent with the GMC and MPTS' legal role to protect the public.*
> *….'*

No Action

32. The Tribunal first considered whether to conclude the case by taking no action. It considered paragraphs 13 – 16 of Section 3 of the MPTS Guidance which relate to consideration of 'Taking no action'. it noted in particular paragraph 13 states:

> *'Where a doctor's fitness to practise is impaired, it will usually be necessary for the MPT to restrict the doctor's registration to achieve public protection. But there may be exceptional circumstances to justify an MPT taking no action. Exceptional circumstances are unusual, special, or uncommon, so such cases are likely to be very rare.'*

33. The Tribunal was mindful of the common ground between the parties as set out above at paragraph 24. The Tribunal determined that, given the facts of the offence in this case which led to Dr Elias' conviction, there are no exceptional circumstances which would warrant the taking of no action in the context of the facts found proved and the Tribunal's determination on impairment. It considered that the taking of no action would not be sufficient, proportionate, or in the public interest.

Conditions

34. The Tribunal next considered whether to impose conditions on Dr Elias' registration. It bore in mind that any conditions imposed should be proportionate, workable and

measurable, as well as appropriate in the context of the statutory overarching objective, and public protection.

35. The Tribunal took into account the submissions made by both parties as set out above, and the common ground that in a case involving conviction (and conviction of this type), the starting point would not be a period of conditional registration.

36. The Tribunal had regard to the relevant sections of the MPTS Guidance in relation to sanction.

37. The Tribunal had regard to paragraphs 17 – 40 of the MPTS Guidance. In particular, paragraph 30 states:

> *' 30. Conditions are unlikely to be a proportionate response in cases where the nature of the allegations about the doctor's behaviour fall at the higher end of the spectrum of seriousness and/or suggest an underlying problem with their attitude.'*

38. The Tribunal had particular regard to paragraph 62 of the MPTS Guidance which, as mentioned above, sets out a table for considering the appropriate sanction based on the level of risk to public protection. It also had regard to paragraph 66 which states:

> *'The following matters are not relevant to the assessment of current and ongoing risk to public protection which will have informed the MPT's decision on impairment, but can be considered at this stage when deciding what sanction is proportionate:*
>
> *a. evidence about the impact that taking a specific type of action may have on patients or members of the public, or the doctor themselves, and/or*
> *b. references and testimonials about the doctor's character.'*

39. Paragraph 67 states:

> *'Where the MPT considers it is appropriate to take such evidence into account, they must explain the weight given to it and the impact this has had on their decision on sanction. This will include justifying any departure from a sanctions banding, if one is available for the specific case type.'*

40. The Tribunal was mindful that in its determination on impairment, it had assessed Dr Elias' actions which led to conviction to pose a high level of risk to public protection. Further, it had found that the second and third limbs of public protection are engaged and that the level of risk, notwithstanding XXX, remained at the high level.

41. The Tribunal had regard to paragraph 8 of Section 3 of the MPTS Guidance. This states:

'For some types of cases, sanctions bandings are available. The MPT should be mindful that these provide a guide, and there may be evidence relevant to the individual circumstances of the case that indicates the appropriate action should be lower or higher than that indicated by the bandings. This can include whether the type of sanction should be less or more restrictive, or where conditions or suspension are imposed, that the length should be longer or shorter than that stated.'

42. Paragraph 45 of the MPTS Guidance states:

'45. Suspension may be proportionate in cases where some, or all, of the following factors are present:

....

c. the level of current and ongoing risk to public protection is such that, although patient safety is not an issue, suspension is needed to maintain public confidence in the profession and/or maintain professional standards.'

43. It was submitted by the defence that taking all relevant factors into account, conditions could be formulated which are proportionate, measurable, workable and appropriate.

44. The Tribunal reminded itself that Dr Elias has been subject to restrictions placed upon his clinical practice, both by his employer following the internal disciplinary investigation, and by the GMC. In his written submissions, at paragraph 3.9, Mr Fortune states:

'In Paragraph 44 on Page 65 of the Guidance, the restrictive action of Suspension is intended to address the level of current and ongoing risk to public protection and is not intended to be punitive. As it prevents a doctor from working and earning a living within that profession, it can have this effect. Suspension can also have a deterrent effect and be used to send a signal to the individual doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor.'

45. The Tribunal took account of the submissions made by Mr Fortune as to the impact a period of suspension would have on Dr Elias, as set out above, including the impact on Dr Elias' financial circumstances and his ability to earn a living, XXX, and the impact on The Christie in being deprived of an experienced consultant. Mr Fortune submitted, therefore, that a period of conditional registration would be appropriate to address the risk identified in this case. He added that conditions would also satisfy the second and third limbs of the overarching objective, and of public protection.

46. The Tribunal noted that Dr Elias has continued to work with the restrictions imposed on his registration, and that there have been no concerns about his compliance with them. Nor have there been any concerns raised about his clinical practice insofar as it related to patient safety.

47. The Tribunal was mindful that Dr Elias' conviction resulted in a custodial sentence of 8 weeks, suspended for 12 months.

48. It has noted the testimony of Dr I, dated 8 September 2025, in which he refers to the work of the Molecular Imaging team and Dr Elias being one of six consultants trained specialists in radiology and nuclear medicine; that the services provided by that department were high sub-specialised and require extensive additional training and that Dr Elias was trained to deliver a number of MRT therapeutics to patients. Further Dr I commented that these highly specialised skills were rare, difficult to replace and in high demand nationally, and that *'Retaining Mark's expertise is essential, not only for continuity of service but also for providing cross cover during periods of consultant absence. Any reduction in cover would directly impact patient care within an already overstretched NHS service.'*

49. There is no evidence before the Tribunal that a period of suspension would have a detrimental impact on XXX, or on the functioning and operation of The Christie, and in particular the department in which Dr Elias works. XXX. Moreover, the Tribunal was mindful that the interests of the public and the need to protect the public outweigh the individual interests of a doctor.

50. The Tribunal had regard to paragraphs 35, 36, 37, 38 and 43 of its determination on impairment, where it stated:

> *'35. It noted in the certificate of conviction it states:*
>
> > *'Reason: the offence(s) are so serious that only a custodial sentence can be justified. Reason for custody: A prolonged sexual act on a public train. The defendant must comply with the requirements within the supervision period. In the event of activation of sentence: 0 bail remand days to count. Total custodial period 8 Weeks. Supervision period: 12 Months. The custodial sentence has been suspended because The defendant was of previous good character and the bench deemed him to have a realistic prospect of rehabilitation. Reason for sentence without PSR: full PSR available to sentencing bench.*
> >
> > *……'*
>
> *36. In the Tribunal's judgement, the behaviour that led to Dr Elias' conviction amounted to a breach of Domain 1 of GMP, which states at paragraph 4: 'You must follow the law ….'.*
>
> *37. The Tribunal found paragraph 38 of the General introduction to the MPTS Guidance, in particular, to be engaged:*
>
> > *'Doctors must follow the law and so behaviour that leads to a criminal conviction … can undermine public confidence, including some behaviours arising outside a doctor's professional practice. A doctor's behaviour can undermine the public's trust in the profession and impact on public confidence in the following circumstances:*

- *where the specific nature of behaviour in a doctor's private life indicates a high level of seriousness'*

38. In the Tribunal's judgement, the behaviour that led to Dr Elias' conviction also amounted to a breach of Domain 4 of GMP,

43. The Tribunal next considered whether there were any features increasing the seriousness of the allegation, and the seriousness of the doctor's departure from professional standards. The Tribunal was alert to the risk of double counting matters already considered when determining the seriousness of the offence. It considered that the following point listed in paragraph 36 of the MPTS Guidance is applicable: 'A reckless disregard for patient safety or professional standards' was an additional feature increasing seriousness.'

51. XXX

52. The Tribunal considered Mr Fortune's submissions that the Tribunal could find the seriousness of Dr Elias' conviction, and his action which led to that conviction, could be lowered from a high level of risk and seriousness such as to justify a sanction of conditions. However, The Tribunal determined that the level of risk and seriousness remained at the higher end.

53. In considering the appropriate sanction to address the second and third limbs of the overarching objective or of public protection – namely, to maintain public confidence in the profession, and to promote and maintain proper professional standards and conduct for members of the profession, the Tribunal concluded that a period of conditional registration would not be a sufficient sanction. The Tribunal considered that the seriousness of Dr Elias' conviction and the actions which led to that conviction cannot be addressed with a period of conditional registration. Conditions would not be appropriate or proportionate to mark the seriousness of the conviction in this case.

Suspension

54. The Tribunal then considered whether suspension is the appropriate sanction in this case.

55. The Tribunal had regard to paragraphs 41 – 54 of the MPTS Guidance. These paragraphs deal with when suspension might be considered the appropriate sanction. In particular, the Tribunal noted paragraphs 44 and 45(c) state:

'44 Restrictive action of suspension is intended to address the level of current and ongoing risk to public protection and is not intended to be punitive. However, as it prevents a doctor from working and earning a living within that profession, it can have this effect. Suspension can also have a deterrent effect and be used to send a signal to

the individual doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor.

45 Suspension may be proportionate in cases where some, or all, of the following factors are present:

….

c. the level of current and ongoing risk to public protection is such that, although patient safety is not an issue, suspension is needed to maintain public confidence in the profession and/or maintain professional standards.'

56. Having regard to its findings set out above, and given the circumstances of this case, the Tribunal determined that suspension is the appropriate sanction in this case taking into account the fact and nature of the conviction, and the suspended custodial sentence.

57. In determining the length of the suspension, the Tribunal had regard to the table set out at paragraph 62 of Section 3 of the MPTS Guidance. The table indicates that the sanction in relation to a conviction for a high level of risk is 12 months to erasure. A medium level of risk to public protection in relation to a conviction falls under the 'Suspension 6 to 12 months' banding.

58. The Tribunal had regard to paragraph 8 of Section 3 of the MPTS Guidance, set out above.

59. The Tribunal had regard to paragraphs 46 and 47 of the MPTS Guidance which state:

'46. The MPT will need to decide the appropriate length of time that suspension should be put in place for, up to the maximum of 12 months. The following factors will be relevant:

a. the assessment of the level of current and ongoing risk to public protection posed by the doctor 15 Section 35D(2)(b) of the Medical Act 1983 (as amended)
b. the reasons for assessing suspension as being the proportionate response
c. the amount of time the doctor is likely to need to remediate, complete treatment for and/or recover from a health condition that is having, or is likely to have, an impact on their ability to practise safely and effectively, and/or
d. the amount of time the parties will reasonably need to prepare for any review of whether the doctor continues to pose a current and ongoing risk to public protection requiring restrictive action in response or is safe to return to unrestricted practice.

47. A short suspension may be appropriate in cases where: the doctor's behaviour fell at the higher end of the spectrum of seriousness; there was evidence of relevant context and/or evidence of insight and remediation that decreased the level of current

and ongoing risk to public protection such that there are no outstanding patient safety considerations; and suspension is being imposed on public confidence grounds and/or to maintain professional standards. It might also be appropriate in relation to a very small number of clinical cases where a doctor's performance was such that although unlikely to recur, the nature of the allegation was so serious as to undermine the public's trust in the profession.

60. It was the agreed position between the parties that the starting point for a conviction was a suspension for 12 months. Taking into account the factors listed in paragraph 47 of the MPTS Guidance, as set out above, in the Tribunal's judgement, given all the circumstances in this case including the submissions advanced by Mr Fortune, the appropriate length of a sanction of suspension is a period of six months.

Review

61. In view of its determination to suspend Dr Elias' registration for a period of six months, the Tribunal considered whether a review would be required. It noted Mr Fortune submitted that a review would be likely where a sanction of conditions had been imposed. However, as this is not the case, and the sanction of suspension has been directed to address the seriousness of Dr Elias' conviction, XXX, it was the Tribunal's view that no review is necessary.

Determination on Immediate Order - 30/01/2026

1. Having determined that Dr Elias' registration should be suspended for a period of six months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order of suspension.

Submissions

2. Mr Mullen invited the Tribunal, at the sanction stage, to impose an immediate order on the public interest ground.

3. Mr Fortune conceded that whatever the Tribunal's decision on sanction, an immediate order was likely to be imposed.

The Tribunal's Determination

4. Pursuant to section 38(1) of the 1983 Act, on giving a direction for suspension, the Tribunal may impose an immediate order (suspension in this case) if it considers it necessary for the protection of members of the public or is otherwise in the public interest.

5. The Tribunal had regard to the relevant paragraphs of the MPTS Guidance, including:

'83 The decision whether to impose an immediate order is at the discretion of the MPT based on the facts of the case. When deciding if an immediate order is needed the MPT should consider the seriousness of the proved allegation and the level of current and ongoing risk to public protection posed by the doctor.

84 It will not usually be appropriate for a doctor to hold unrestricted registration until a sanction takes effect in cases where:

a. the doctor poses a risk to patient safety
b. the risk to one or more parts of public protection is high, and/or
c. immediate action is needed to maintain public confidence in the medical profession.'

6. The Tribunal considered its findings at previous stages in relation to Dr Elias' conviction. It assessed the level of current and ongoing risk posed to public protection to be high, in relation to the second and third limbs of the overarching objective of public protection.

7. The Tribunal considered that an immediate order is necessary in this case so as to uphold and maintain professional standards in the medical profession and to maintain public confidence in the medical profession. It considered 84(b) and (c) above to be of particular relevance in this respect. The Tribunal considered that the only way to manage the current and ongoing risk is to impose an immediate order.

8. This means that Dr Elias' registration will be suspended from the date on which notification of this decision is deemed to have been served upon him: section 38(5) of the 1983 Act (and see paragraph 86 of the MPTS Guidance, Section 3). The substantive direction, as already announced, will take effect 28 days from that date, unless Dr Elias lodges an appeal in the interim. If Dr Elias lodges an appeal, the immediate order of suspension will remain in force until the appeal has concluded.

9. The Tribunal was made aware during these proceedings at the earlier stages of an interim order being in place on Dr Elias' registration. The Tribunal determined to revoke the interim order.

10. That concludes the case.

ANNEX A – 30/01/2026

Application under Rule 41 for the entirety of the hearing to be held in private

1. This determination will be handed down in private. However, as this case concerns Dr Elias's alleged misconduct, a redacted version will be published at the close of the hearing with confidential matters removed.

2. At the outset of hearing, on behalf of Dr Elias, Mr Malcolm Fortune, Counsel, made an application pursuant to Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'), to exclude members of the public for the entirety of the hearing.

3. The Tribunal was provided with written skeleton arguments from both parties.

Submissions

On behalf of Dr Elias

4. In his skeleton argument, Mr Fortune reminded the Tribunal that the matters before it related to Dr Elias' conviction and XXX, following a decision of the Case Manager, pursuant to Rule 32 of the Rules. He said that the Case Manager noted the GMC's submissions at the time that XXX, and that on the day of his actions which led to his conviction, Dr Elias had consumed alcohol.

5. Mr Fortune said that XXX. He submitted that it was therefore necessary for the entirety of the proceedings to be heard in private session. XXX. Mr Fortune referred the Tribunal to Rule 41 of the Rules and also to XXX of the GMC's policy on publication and disclosure of fitness to practise proceedings, stating that this should only be read as guidance. He said that a proportionate approach is required when considering issues related to XXX and the Tribunal has a duty to ensure the proceedings are balanced appropriately in the interests of justice.

6. Mr Fortune said that the Tribunal will be mindful how difficult it can be to constantly have to switch between public and private session, and the likely delays that can add to the length of the hearing. XXX.

7. Mr Fortune added that whilst it was correct that the pre-sentence report prepared prior to Dr Elias' sentencing was discussed in public, specific detail contained within that report, which go to the matters before this Tribunal, in relation to Dr Elias' XXX or his personal circumstances, were not disclosed or ventilated in public. XXX.

8. Mr Fortune invited the Tribunal to grant his application.

On behalf of the GMC

9. Mr Alex Mullen, Counsel, summarised the background to the case, relating to both the conviction and to XXX. He referred to Rule 41 and to relevant case law.

10. Mr Mullen submitted that the GMC does not accept that the matters in this case are XXX that they cannot be considered separately and, therefore should not be considered in public session. Mr Mullen acknowledged that whilst moving in and out of public session can be laborious, this is not a justification to depart from the important general principle of all hearings being held in public session. He added that both he and Mr Fortune are experienced counsel who are well aware of when it is appropriate to move into private session and how to manage that. He said that moving in and out of public session would not jeopardise the length of the hearing.

11. Mr Mullen reminded the Tribunal that the matters relating to the criminal proceedings are already in the public domain, as have the matters which the doctor now asserts should be heard in private. He added that this is a case which has clearly drawn public interest at the criminal proceedings, and as such there is little risk of prejudice to the doctor in ventilating matters which are in any event in the public domain. XXX.

12. Mr Mullen invited the Tribunal to refuse the application.

The Tribunal's Approach and Decision

13. The Tribunal had regard to Rule 41 of the Rules. Rule 41(1) – (3) states:

'41
(1) Subject to paragraphs (2) to (6) below, hearings before the Committee and a Medical Practitioners Tribunal shall be held in public.
(2) The Committee or Medial Practitioners Tribunal may determine that the public shall be excluded from the proceedings or any part of the proceedings, where they consider that the particular circumstances of the case outweigh the public interest in holding the hearing in public.
(3) Subject to paragraphs (4) to (6), the Committee or a Tribunal shall sit in private, where they are considering-
(a) whether to make or review an interim order; or
(b) the physical or mental health of the practitioner.'

14. Under Rule 41(2) of the Fitness to Practise Rules, the Tribunal may determine that the public shall be excluded from the proceedings or any part of the proceedings, where they consider that the particular circumstances of the case outweigh the public interest in holding the hearing in public. XXX.

15. Ordinarily in cases concerning allegations of both conviction and XXX, MPT hearings would sit in public for the conviction issues and move into private for XXX. However, it has been submitted in this case by the defence that XXX are related to the matters which led to his conviction. As a result, it has been submitted that it would be hard to separate the hearing, moving between public and private session. The defence has invited the Tribunal to

sit in private for the entirety of the hearing. It is the GMC's submission that the two matters can be dealt with separately and therefore the proceedings can be conducted moving between public and private session.

16. In reaching its decision, the Tribunal bore in mind the decision in the case of *Miller v GMC [2013] EWHC 1934 Admin* and the parties submissions thereon. The Tribunal bore in mind the need to ensure that only the minimum derogation from the general rule that such hearings take place in public. The Tribunal also reminded itself of the need to explain with adequate reasons a decision to depart from the default position of hearings taking place in public. The Tribunal should not accept at face value a submission that there is a necessary and proportionate need to have a hearing in private where this has not been established. The starting (default) position is always that the hearing should be in public. If any party wishes to depart from the general rule, then the onus rests on them to establish and justify the need for the derogation sought.

17. The Tribunal was mindful that as Dr Elias' case relates to both conviction and XXX. The Tribunal determined, therefore, that it will be necessary for XXX to be heard in private. However, in relation to the conviction matters, the Tribunal considers that as these matters had already been ventilated in the public arena during the criminal proceedings, it would not be a disadvantage or prejudicial to Dr Elias for those matters to be heard in public session during these proceedings. The Tribunal considered that it would not be appropriate, proportionate, or in the public interest, to consider those matters in private.

18. The Tribunal considered that, on balance, the proceedings could be managed by the hearing moving in and out of public and private session. The Tribunal was of the view that the public interest in open justice would be served by having matters relating to the conviction being in public, although it notes that both parties are in agreement that the Tribunal is not expected to consider the application in relation to the public interest element. Nevertheless, it is a matter which the Tribunal should have regard to when deciding on such an application.

19. The Tribunal accepted the GMC submission that the proceedings can be managed moving in and out of public and private session when considering matters relating to Dr Elias' conviction and XXX. Both Counsel are experienced and able to minimise any disruption in the proceedings by marshalling their questioning appropriately. As a professional Tribunal, it noted it was common practice to move between private and public matters. There was a well-established procedure for XXX to be heard in private and matters of public interest held in public, as per Rules 41(1) of the Rules.

20. In the circumstances, The Tribunal determined that it was fair, appropriate and in the interest of justice for these proceedings to be in public and the Tribunal would go into private session when private matters were being discussed.

21. Accordingly, the Tribunal decided to refuse Mr Fortune's application for the entirety of proceedings to be in private.