

**PUBLIC RECORD**

**Date:** 02/06/2023

**Medical Practitioner’s name** Dr Mark HALL  
**GMC reference number:** 2956220  
**Primary medical qualification:** MB BS 1984 University of London

**Type of case** **Outcome on impairment**  
 Review - Misconduct Not Impaired

**Summary of outcome**  
 Suspension to expire

**Tribunal:**

Legally Qualified Chair	Mrs Helen Potts
Lay Tribunal Member:	Mr Andrew Gell
Medical Tribunal Member:	Dr Kate Thomas

Tribunal Clerk:	Miss Evelyn Kramer
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**Attendance and Representation:**

Medical Practitioner:	Present and represented
Medical Practitioner’s Representative:	Mr Lee Gledhill, Counsel, instructed by Medical Defence
GMC Representative:	Mr Lewis Kennedy, Counsel

### **Attendance of Press / Public**

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

### **Overarching Objective**

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

### **Determination on Impairment - 02/06/2023**

#### **The Outcome of Applications Made during the Impairment Stage**

1. The Tribunal refused an application by Mr Kennedy, Counsel, on behalf of the GMC, made pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that the hearing should proceed wholly in private. Following clarifications from the Tribunal, both parties accepted that Dr Hall's previous hearing was a misconduct hearing that was heard partly in public and partly in private (when matters XXX were discussed).
2. The Tribunal reminded itself that, under Rule 41(1) there is a presumption that all hearings will proceed in public. The Tribunal considered that this review hearing will primarily relate to matters of insight and probity. The Tribunal determined that it was appropriate for the hearing to proceed in public, save for any matters relating to XXX that should be heard in private as set out in Rule 41XXX of the Rules.
3. There were subsequently no references to XXX during the hearing and it was, therefore, held entirely in public.

### **Background**

4. Dr Hall qualified in 1984 with an MBBS from Middlesex Hospital Medical School, University of London. At the time of the events which are the subject of the hearing Dr Hall was employed as Clinical Director for Transport and Infrastructure at Medigold Health, having joined the private health care sector in 2002.

The November 2022 Hearing ('the 2022 Tribunal')

5. A Medical Practitioners Tribunal (MPT) hearing convened on 14 November 2022 to consider the Allegation that Dr Hall's fitness to practise was impaired by reason of misconduct. At the outset of proceedings, Dr Hall made full admissions to the Allegation.

6. Dr Hall admitted that, on one or more occasions between 28 December 2017 and 25 August 2020, he had inappropriately issued prescriptions under false patient names with false details for his own use. Dr Hall admitted that he knew that the patient names and details he had used were false, in that they included addresses registered to Dr Hall and his own date of birth. Dr Hall admitted that his actions were dishonest.

7. In considering the seriousness of Dr Hall's actions, the 2022 Tribunal took into account that Dr Hall's private prescriptions had not allowed false entries to be created on the medical records of real patients. However, it was clear that Dr Hall had not addressed his mind to the impact of his actions on patients at the time when he wrote the false prescriptions. The 2022 Tribunal was of the view that Dr Hall's conduct prioritised his own interests over others. He used the names of his friends to obtain prescriptions for himself in some cases, making up fictitious names in others. Dr Hall admitted that he had used his friends' names with a view to a) avoiding detection of his fraudulent behaviour, and b) knowing that one of his good friends would 'cover' for him and indicate that he had prescribed for them.

8. The 2022 Tribunal was of the view that doctors enjoy a fundamental privilege in being permitted to prescribe medicines and considered that Dr Hall's actions in dishonestly prescribing medication for himself over a period of 32 months was an abuse of his privilege, his professional position, and a significant breach of GMP prescribing principles. As a result, the 2022 Tribunal determined that Dr Hall's actions amounted to misconduct.

9. The 2022 Tribunal noted that Dr Hall had admitted to his dishonest misconduct, had expressed regret and remorse during his oral evidence, and indicated that he would never repeat his actions. He repeatedly indicated that he understood that what he had done was

wrong. He said that with hindsight, he was unable to understand why he had acted as he did, and indicated that he had initially done so as a matter of “*convenience*” when his personal life was in turmoil, and that collecting his prescription from a chemist close to his GP surgery would have been difficult, particularly given that his home address was not a fixed one. However, when pressed as to why he had allowed this to continue for the better part of three years, once his personal life had become less fraught, Dr Hall’s evidence was that using false prescriptions thereafter had become a habit.

10. When asked about the impact of his misconduct, Dr Hall focused on himself, and this prioritisation on self was evident in his decision to self-prescribe in the name of friends and other fictitious names. When asked about the possible consequences of harm from his actions, Dr Hall’s immediate response concerned himself as a patient, not being under the care of an independent prescribing physician, before mentioning as an afterthought the potential effect on the medical profession and public confidence in the profession. Given a combination of partial explanations as to why he acted why he did, and a tendency to continue to minimise his behaviour in evidence to the 2022 Tribunal, it determined that Dr Hall’s insight was not complete.

11. The 2022 Tribunal noted that dishonesty is generally held to be difficult to remediate. However, it took into account the various ethics courses and reflective activities Dr Hall had undertaken. It was clear to the 2022 Tribunal that Dr Hall had indicated that he was on a “*journey*” and he was mindful of the need to ensure his probity in the future, as indicated by the courses he had already undertaken and the future course he had booked.

12. The 2022 Tribunal was of the view that Dr Hall was serious about continuing to remediate his wrongdoing. The 2022 Tribunal did not consider the misconduct irredeemable. Further, it was persuaded that there was no good reason why his journey into developing insight could not continue. The 2022 Tribunal considered that the proceedings had had a salutary effect upon Dr Hall, and it did not think that Dr Hall would self-prescribe contrary to GMP again. However, the 2022 Tribunal was less clear as to whether Dr Hall would prioritise his interests and be tempted to behave dishonestly, were there to be a convergence of difficult and inconvenient circumstances in the future. This view was held given the limited insight that Dr Hall had been able to demonstrate to the 2022 Tribunal; it was unable to conclude that the risk of repetition was low.

13. The 2022 Tribunal was of the view that no patient harm had been caused by Dr Hall’s actions. It was mindful that Dr Hall’s misconduct was closely bound up with his professional

status and was not an impulsive or momentary act of dishonesty. It considered that Dr Hall had failed to uphold the proper standards of the medical profession and had breached its fundamental tenets. Given all the circumstances of this case, the 2022 Tribunal determined that a finding of impairment was required to maintain public confidence in the profession and to declare and uphold proper standards of conduct.

14. At the sanction stage, the 2022 Tribunal determined to suspend Dr Hall's registration for a period of six months. It considered that this duration would serve as a period in which Dr Hall could develop his insight further. Given that two years had elapsed since his misconduct had been discovered and that he had not yet developed full insight, the 2022 Tribunal concluded that no lesser period would be sufficient for Dr Hall to be able to evidence the development of further insight and remediation. The 2022 Tribunal acknowledged that this sanction removed from Dr Hall the ability to practise in his chosen profession but considered that no lesser sanction would serve to protect public confidence in the profession and uphold acceptable standards of conduct.

15. The 2022 Tribunal directed a review and indicated that the reviewing Tribunal might be assisted by the following:

- information about any training undertaken in terms of material covered,
- further reflection covering how insight has developed,
- evidence from persons of standing in the profession addressing the Registrant's probity.

#### Today's hearing

16. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Hall's fitness to practise remains impaired by reason of his misconduct.

#### **The Evidence**

17. The Tribunal received documentary evidence, which included but was not limited to:

- The Record of Determinations from the 2022 Tribunal;

- Various CPD Certificate and Reflections, dated between November 2022 and May 2023, including:
  - Values in Practice, dated 14 December 2022;
  - Probity and Ethics in Practice, dated 18 January 2023;
  - Bespoke Probity and Ethics in Practice, in a one-to-one setting, dated 10 May 2023
- Summary of coaching discussions between Dr Hall and Dr A, dated 6 May 2023;
- Summary of discussions between Dr Hall and Mr C, dated 2 and 16 February 2023;
- Dr Hall’s written reflections on reading he has completed, various dates;
- Testimonials from various medical practitioners, dated May 2023.

18. No oral evidence was called on behalf of the GMC, it relied solely on the documentary evidence adduced.

19. Dr Hall provided Continuing Professional Development (CPD) certificates and multiple written reflections: on his actions; on courses and coaching he had undertaken; and on discussions that he had had with other professionals, dated between December 2022 and May 2023.

20. Dr Hall also gave oral evidence at the hearing. Dr Hall stated that he had fully accepted the findings of the 2022 Tribunal and he reads its assessment of his evidence and level of insight regularly. He said that he has used the 2022 Tribunal’s findings as a basis to improve himself. Dr Hall referred the Tribunal to his written reflections on what led to his misconduct and its impact, the courses he has undertaken and relevant reading he has done. He said that he has used the duration of his suspension to reflect on what led to his misconduct and has taken steps to improve his understanding of himself, the duties of a doctor and increase his professionalism.

21. Dr Hall told the Tribunal that he had undertaken CPD courses, reading and one-to-one coaching to deepen his understanding of himself and improve his insight. He said he had learned a lot about himself, some of which had been difficult. He explained that all the steps he has taken have helped him to understand the reasons for his misconduct and why it occurred, including his loss of self-regulation and its causes, his egotism, his loss of reality and issues with power. Dr Hall acknowledged that it had been challenging to engage in such work on himself at this stage of his life but that he had made every effort to improve himself.

22. Dr Hall told the Tribunal that he now understands why he acted as he did and has taken action to ensure he will not repeat his misconduct. He said the steps he has taken have made him a better professional. Dr Hall explained that he has now developed a support network of individuals, with whom he talks openly. He said he has accepted that he is fallible and will make mistakes, but he is now confident that he will make professional decisions thoughtfully, after discussion with others.

23. Dr Hall said that he was disappointed in himself for losing the trust of the medical profession and acknowledged that his actions affected everybody. He reflected that trust is most important in medicine, that it is easily lost and difficult to maintain and that it must be maintained to be a good doctor. Dr Hall said he understands the seriousness of what he did, why he did it, how it affected those around him and the wider profession. He said that he has undertaken a lot of work to improve himself, utilising a multi-faceted approach to do so over the last six months to ensure his misconduct will not be repeated. He assured the Tribunal that he now has a much deeper understanding of his previous actions and their consequences. Dr Hall said he was confident that in the future, he will make better decisions with a thoughtful, clear and honest approach.

24. In addition, on behalf of Dr Hall, the Tribunal received evidence from Dr B, an Occupational Health Physician and colleague of Dr Hall. Dr B provided a written testimonial, dated 8 May 2023 and gave oral evidence at the hearing. Dr B told the Tribunal about the discussions he had with Dr Hall about the 2022 Tribunal's findings. He explained that Dr Hall was a very well-respected clinician and that his standing in the profession has been a relevant factor in how he has reflected on his misconduct. Dr B was clear that Dr Hall has fully understood and reflected on the findings of the 2022 Tribunal. Dr B spoke of the deep professional embarrassment felt by Dr Hall about his misconduct. Dr B was confident that Dr Hall will not repeat his misconduct.

## Submissions

25. On behalf of the GMC, Mr Kennedy referred the Tribunal to the background of Dr Hall's case and set out the evidence before it. Mr Kennedy submitted that the GMC was neutral on the matter of current impairment. He referred the Tribunal to the factors relevant to its consideration of current impairment, including Dr Hall's level and scope of insight into his misconduct, any evidence of remediation, the risk of repetition, any expressions of remorse and regret and finally, the ability to be self-critical and acknowledge fault. Mr

Kennedy submitted that it was for the Tribunal to determine whether, in view of the factors he had set out, Dr Hall’s fitness to practise remains impaired.

26. On behalf of Dr Hall, Mr Gledhill submitted that Dr Hall has clearly demonstrated a willingness to be self-critical and has acknowledged his faults both in the documentary evidence before the Tribunal and in his oral evidence. Mr Gledhill submitted that Dr Hall had reflected on the past and had explained how his insight had developed. Mr Gledhill submitted that the Tribunal could be satisfied that Dr Hall had developed full insight into his misconduct and that the risk of repetition was now negligible. He reminded the Tribunal that this conclusion was also supported by the evidence of Dr B.

27. Mr Gledhill submitted that Dr Hall had come a long way since his last hearing in November 2022. He submitted that Dr Hall had recognised the deficits in his previous level of insight and had used his time away from the workplace to reflect. Mr Gledhill submitted that Dr Hall now embraces what it is to be a respected and respectable doctor and understands the needs to adhere to the standards expected of him. He submitted that Dr Hall is now fit to practise. Mr Gledhill invited the Tribunal to find that Dr Hall’s fitness to practise is no longer impaired and to allow him to return to unrestricted practice.

### **The Relevant Legal Principles**

28. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal’s judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal took into account that there is a persuasive burden on the doctor to satisfy it that he is safe to return to unrestricted practice.

29. This Tribunal must determine whether Dr Hall’s fitness to practise is impaired as at today, taking into account Dr Hall’s conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

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

30. The Tribunal took into account all of the evidence, both oral and documentary in considering whether Dr Hall’s fitness to practise remains impaired by reason of misconduct.



31. Whilst not prescriptive, the 2022 Tribunal had indicated what would assist this Tribunal in its decision on current impairment. The Tribunal acknowledged that Dr Hall had provided everything that had been asked of him and had demonstrated a willingness to engage fully with the findings of the 2022 Tribunal.

32. In determining whether Dr Hall's fitness to practise remains impaired, the Tribunal considered how his insight has developed since the 2022 Tribunal. The Tribunal reminded itself that, at the conclusion of his last hearing, the 2022 Tribunal had found that although Dr Hall had expressed regret and remorse, his insight was limited. The 2022 Tribunal found that the insight Dr Hall had developed focussed on the impact of his actions on himself and that he had, at times, sought to minimise the seriousness of his misconduct.

33. The Tribunal had regard to Dr Hall's written reflections that he had produced in the months since he was suspended. The Tribunal was satisfied that in his written reflections and his oral evidence, Dr Hall was no longer seeking to minimise his actions, nor was he focussing his reflection on himself alone. Dr Hall had demonstrated a clear understanding of the impact of his misconduct on his friends, patients and the wider profession. The Tribunal found that Dr Hall had not sought to trivialise the seriousness of misconduct and had been genuine and deliberate in his written reflections and in his oral evidence. Dr Hall accepted that he is fallible but also demonstrated how he has put in place safeguards to ensure that he does not repeat his misconduct.

34. The Tribunal recognised that Dr Hall's commitment to develop his insight further could not have been an entirely comfortable experience. It noted that by engaging in frank discussions about his failings with colleagues, course leaders, and a coach, Dr Hall had demonstrated his willingness to be open and honest with his support network.

35. In these circumstances, the Tribunal was satisfied that Dr Hall had, through detailed written reflection and thoughtful oral evidence, demonstrated that he had now developed full insight into his misconduct, including what had led to it, its impact on others and how to avoid any possible repetition.

36. The Tribunal went on to consider the extent of Dr Hall's remediation. It considered that Dr Hall had taken a structured approach to his remediation. It bore in mind that Dr Hall had completed and reflected on courses relevant to his misconduct, including on probity and ethics and had also completed CPD relevant to his clinical practice. In addition, Dr Hall had sought out coaching to assist him in better understanding his actions and developing insight

into them. The Tribunal was reassured by Dr Hall's evidence about his support system and his willingness to seek advice before making decisions. The Tribunal considered that Dr Hall had taken a proactive and intentional approach toward remediating his misconduct. The Tribunal determined that Dr Hall had now demonstrated sufficient remediation for his misconduct.

37. Taking the above into account, the Tribunal next considered the risk of repetition. Dr Hall has now demonstrated full insight into his misconduct and has taken appropriate steps to remediate it. He has addressed the concerns set out by the 2022 Tribunal. Accordingly, the Tribunal was satisfied that Dr Hall had reduced the risk of repetition of his misconduct to the extent that it was now highly unlikely to be repeated.

38. Having demonstrated insight, remediation and a reduced risk of repetition, the Tribunal determined that Dr Hall's fitness to practise is no longer impaired by reason of misconduct. It determined that Dr Hall is now fit to practise without restriction.

#### Revocation

39. The Tribunal received submissions on whether to revoke the suspension currently imposed on Dr Hall's registration for the remainder of its term under s35D(5)(d) of the Medical Act 1983.

40. On behalf of the GMC, Mr Kennedy indicated that the GMC was neutral on revocation of the order.

41. On behalf of Dr Hall, Mr Gledhill invited the Tribunal to revoke the order with immediate effect on the basis that the Dr Hall's development of full insight was the matter outstanding in this case. Mr Gledhill submitted that the public interest worked two ways and that there was a public interest in Dr Hall returning to work to treat patients as soon as possible.

42. The Tribunal had regard to the 2022 Tribunal's conclusion that no lesser sanction than one of suspension would serve to protect public confidence in the profession and uphold acceptable standards of conduct and that no lesser period of suspension than six months was considered to be sufficient for Dr Hall to be able to evidence the development of further insight and remediation.

43. This Tribunal considered that although Dr Hall had successfully demonstrated insight and remediation, the function of his suspension was not solely to ensure his level of insight developed. It concluded that the substantive suspension imposed by the 2022 Tribunal should run until its expiry on 22 June 2023.

44. Therefore, the Tribunal determined not to exercise its discretion to revoke the suspension immediately but to allow it to expire to ensure the seriousness of Dr Hall's misconduct was marked and to uphold the overarching objective.