PUBLIC RECORD

Dates: 14/11/2022 – 21/11/2022

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

Summary of outcome

Suspension, 6 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Ms Melissa Coutino
Lay Tribunal Member:	Mr Andrew Mcloughlin
Medical Tribunal Member:	Dr John Moriarty

Tribunal Clerk:	Mr Francis Egengwu Mrs Sam Montgomery (21/11/22)

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Lee Gledhill, Counsel
GMC Representative:	Mr Alan Taylor, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 18/11/2022

1. In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004, the hearing was held in public. However, consideration was given to the exclusion of press and public, further to Rule 41(2) and (3) as there were two confidential schedules in the Allegation. The Tribunal determined that any reference to material that was contained within the confidential schedules in the Allegation was to be kept private, XXX

Background

2. 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.

3. The Allegation that has led to Dr Hall's hearing can be summarised as on one or more occasions between 28 December 2017 and 25 August 2020, Dr Hall issued several private prescriptions which he presented to a Boots store. It is alleged that these prescriptions, which were for XXX, were written using names other than his own, and this was dishonest.

4. The initial concerns were raised directly with the GMC on 24 July 2020 by a Boots Pharmacist based in Birmingham after she identified private prescriptions written by Dr Hall with different patient names but the same date of birth and address.

The Allegation and the Doctor's Response

5. The Allegation made against Dr Hall is as follows:

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

1. Between approximately 28 December 2017 and 25 August 2020, on one or more occasion, you issued the prescriptions as set out in Confidential Schedule 1 presented to the Birmingham New Street Boots store. **Admitted and found proved**

2. The prescriptions as set out in Confidential Schedule 1 were inappropriately prescribed by you XXX. **Admitted and found proved**

3. On one or more occasion, you issued the prescriptions as set out in Confidential Schedule 1:

    a. using false patient names and details; Admitted and found proved

    b. knowing the patient names and details you had used were false, in that:

        i. between approximately 21 December 2011 and 9 August 2019 your GMC registered address was as set out in Confidential Schedule 2; Admitted and found proved

        ii. between approximately 9 August 2019 and 6 July 2021 your GMC registered address was as set out in Confidential Schedule 3; Admitted and found proved

        iii. your date of birth is as set out in Confidential Schedule 4. Admitted and found proved

4. Your actions at 3a above were dishonest by reason of paragraph 3b. Admitted and found proved

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

The Admitted Facts

6. At the outset of these proceedings, through his counsel, Mr Gledhill, Dr Hall made admissions to all paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

Witness Evidence

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

- Ms A, Pharmacist; and
- Dr B, board-level Medical Director and Responsible Officer for Medigold Health.

8. Dr Hall provided his own witness statement on 24 November 2021 and also gave oral evidence at the hearing on 15th and 16th November 2022. In addition, the Tribunal received evidence from the following witnesses on Dr Hall's behalf:

- Dr C, Occupational Health Physician and current line manager of Dr Hall, by video link;
- Dr D, Occupational Health Physician and former line manager of Dr Hall, by video link; and
- Mr E, a superintendent in the Metropolitan Police, and long-standing friend of Dr Hall, by video link.

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

- Dr F, Occupational Health Consultant.

Documentary Evidence

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

- Witness statement of Ms A, dated 9 August 2021;
- Witness statement of Dr B, dated 4 February 2021;
- Index referral from Boots pharmacy, dated 24 July 2020;
- Copies of prescriptions, various dates;
- Schedule of prescriptions, various dates;
- Medigold medical consumables spreadsheet, undated;
- Admissions to Charges, dated 30 August 2022;
- Witness statement of Dr Mark Hall, dated 24 November 2021;
- Short CV of Dr Mark Hall, undated;
- Reflective writing of Dr Mark Hall, undated;
- Certificate of attendance: Maintaining Professional Ethics, dated 4 – 6 May 2021;
- Character reference from Mr E, dated 3 October 2022;
- Character reference from Dr C, dated 14 October 2022;
- Character reference from Dr F, dated 18 October 2022; and
- Personal Development Plan, undated.

Submissions

<u>On behalf of the GMC</u>

11. Mr Taylor referenced the case *of R (on the application of Remedy UK Limited) v GMC* (2010) EWHC 1245 (Admin), specifically paragraph 37 which states:

> *"(1) Misconduct is of two principal kinds. First, it may involve sufficiently serious misconduct in the exercise of professional practice such that it can properly be described as misconduct going to fitness to practise. Second, it can involve conduct of a morally culpable or otherwise disgraceful kind which may, and often will, occur*

outwith the course of professional practice itself, but which brings disgrace upon the doctor and thereby prejudices the reputation of the profession.

(2) Misconduct falling within the first limb need not arise in the context of a doctor exercising his clinical practice, but it must be in the exercise of the doctor's medical calling. There is no single or simple test for defining when that condition is satisfied.

(6) Conduct falls into the second limb if it is dishonourable or disgraceful or attracts some kind of opprobrium; that fact may be sufficient to bring the profession of medicine into disrepute. It matters not whether such conduct is directly related to the exercise of professional skills."

12. Mr Taylor submitted both forms of misconduct were present in this case and that the misconduct could be described as going to fitness to practise and occurred in the context of his exercising his clinical practice.

13. Mr Taylor submitted that Dr Hall's conduct was dishonourable, bringing disgrace upon himself and as such prejudiced the reputation of the profession. He added that the conduct would be regarded as deplorable by fellow practitioners.

14. Mr Taylor submitted that the following were features of Dr Hall's actions:

- were deliberate and set out to deceive;
- included the use of false patient names to secure medication;
- used a variety of names as a premeditated means of evading detection;
- lied to the dispenser when collecting the medication on each occasion thus compounding his dishonesty;
- were repeated and persistent over a period of 32 months;
- involved no fewer than 25 instances of forgery and falsification of prescriptions; and
- undermined the integrity of the system of prescribing.

15. Mr Taylor submitted that Dr Hall's conduct amounted to serious professional misconduct.

16. Mr Taylor submitted that the need to uphold proper professional standards and public confidence in the profession required a finding of impairment.

17. Mr Taylor submitted that Dr Hall's misconduct was similar to the type described in *Yeong v GMC* (2009) EWHC 1923 (Admin), in which Sales J upheld that:

"a finding of impairment of fitness to practise may be justified on the grounds that it is necessary to reaffirm clear standards of professional conduct so as to maintain public confidence in the practitioner and in the profession. In such a case, the efforts made by the medical practitioner in question to address his behaviour for the future may carry

very much less weight than in a case where the misconduct consists of clinical errors or incompetence."

18. Mr Taylor submitted that dishonesty of this type and persistence does not lend itself to easy remediation, and Dr Hall's efforts at remediation thus far may carry little weight.

19. Mr Taylor submitted that the factor of likelihood of repetition can have no material bearing in a case of serious and persistent dishonesty.

20. Mr Taylor submitted that with regard to insight, it is acknowledged that Dr Hall made full admissions to the paragraphs of the Allegation and has embarked on the journey to development of full insight.

21. Mr Taylor submitted that the journey to full insight is a long one and that Dr Hall has some way to go, and that the Tribunal needed to consider if this is a practitioner who has not yet fully shrugged off his tendency to minimise the seriousness of his actions.

22. Mr Taylor submitted that Dr Hall's use of the words and phrases "silly wrongdoing", "ridiculous", and "crazy stupidity" raises concern about his understanding of his dishonesty given that it extended over a period of 32 months.

23. Mr Taylor submitted that Dr Hall has displayed a degree of insight but had a considerable way to go to gain full insight.

24. Mr Taylor submitted that Dr Hall's actions represent serious departures from the standard expected of a registered medical practitioner and required a finding of impairment to be made.

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

25. Mr Gledhill submitted that Dr Hall admitted misconduct and would accept the Tribunal's finding on impairment.

26. Mr Gledhill submitted that Dr Hall has reflected and taken a number of steps to remediate and was apologetic.

27. Mr Gledhill submitted that during the time of his misconduct he had difficult XXX circumstances XXX.

28. Mr Gledhill said that Dr Hall's conduct emerged at a certain point in time and then persisted. He added that Dr Hall's difficult circumstances were not being used to excuse his behaviour, but said it was mitigation for the sanctions stage.

29. Mr Gledhill submitted that although Dr Hall did not use the language the tribunals might want to hear, he abhors his actions.

30. Mr Gledhill submitted that Dr Hall knew that his actions were wrong but had not appreciated the seriousness. He added that XXX and persistently so, appears to have emerged. Mr Gledhill said that through discussions with other people Dr Hall was shaken from his stupor.

31. Mr Gledhill submitted that it is clear that Dr Hall clearly recognised his actions were wrong and said that Dr Hall had not only looked at it from the prism of stupidity but has described it in various ways. He added that Dr Hall is clear that his actions were wrong and should never have occurred.

32. Mr Gledhill submitted that the example Dr Hall provided was a useful indication of him seeking to minimise the risk of committing future misconduct.

33. Mr Gledhill submitted that Dr Hall had attended ethics courses and intends to attend a future course to demonstrate to those that rightly criticise him that he is making amends. He said that Dr Hall has considerable insight having admitted at the outset to the rule 7 charges, save that of current impairment.

34. Mr Gledhill submitted that Dr Hall admits serious departure from good medical practice but added that Dr Hall did not have any adverse history with his regulator.

The Relevant Legal Principles

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

The Tribunal's Determination on Impairment

Misconduct

36. The Tribunal first considered whether the facts, as found proved in the Allegation, are a sufficiently serious departure from the standards of conduct reasonably expected of Dr Hall, so as to amount to the statutory ground of misconduct.

37. The Tribunal had regard to the statutory overarching objectives, as set out in s1 Medical Act 1983 (the 1983 Act), which are to:

> *"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."*

and the impairment stage submissions by Messrs Taylor and Gledhill.

38. The Tribunal's approach was to consider misconduct as a serious falling short by omission or commission of the standards of conduct expected amongst medical practitioners. It considered how that falling short would be regarded by fellow practitioners. It took into account the evidence of Dr D who distinguished XXX, (save in exceptional circumstances), which is contrary to Good Medical Practice, ('GMP') from falsifying prescriptions in other names which he said was a far greater cause for concern.

39. In considering the seriousness of Dr Hall's actions, the 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. Dr Hall initially indicated that he was unclear as to whether this was the case, as this could have occurred. However, it was subsequently clarified by Mr Taylor with Dr Hall not to be the case, because private prescriptions rely upon the prescribing doctor informing the patient's regular General Practitioner of such additions to medical records, rather than this update occurring electronically as a matter of course. Dr Hall had not undertaken this action, XXX, so the medial records of real people were not amended with false information. However, it was clear that Dr Hall had not addressed his mind to this at the time when he wrote the false prescriptions.

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

> *"1. Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*
>
> *16. In providing clinical care you must:*
>
> *a. prescribe drugs or treatment, including repeat prescriptions, only when you have adequate knowledge of the patient's health and are satisfied that the drugs or treatment serve the patient's needs*
>
> *…*
>
> *g. wherever possible, avoid providing medical care to yourself or anyone with whom you have a close personal relationship.*
>
> *65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*
>
> *71. You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.*

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

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

41. The Tribunal also had regard to *Good practice in prescribing and managing medicines and devices effective March 2013* ('GPP'), specifically paragraphs 17 and 19:

"17 Wherever possible you must avoid prescribing for yourself or anyone with whom you have a close personal relationship.

19 If you prescribe for yourself or someone close to you, you must:

a make a clear record at the same time or as soon as possible afterwards. The record should include your relationship to the patient (where relevant) and the reason it was necessary for you to prescribe.

b tell your own or the patient's general practitioner (and others treating you or the patient, where relevant) what medicines you have prescribed and any other information necessary for continuing care, unless (in the case of prescribing for somebody close to you) they object."

42. The 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 XXX 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.

43. The Tribunal considered Dr Hall's dishonest conduct and reminded itself that Dr Hall had falsified prescriptions over a period of 32 months, so as to dishonestly obtain medication XXX.

44. The Tribunal was of the view that doctors enjoy a fundamental privilege in being permitted to prescribe medicines and considered that Dr Hall's action's prescribing medication over a period of 32 months was an abuse of his privilege, his professional position, and a significant breach of GMP prescribing principles.

45. The Tribunal decided that a finding of misconduct should be recorded.

<u>Impairment by reason of misconduct</u>

46. Having determined that the Allegation amounted to serious misconduct, the Tribunal went on to assess whether Dr Hall's current fitness to practise is impaired by his misconduct.

47. The 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. The Tribunal had regard to Dr Hall's evidence and the submissions made; it was clear that Dr Hall had indicated that he was on a "journey" and was mindful of ensuring probity in the future, by the past courses he had undertaken and the future course he had booked.

48. The 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 is unable to understand why he acted as he did, and indicated that he had initially done so as a matter of "convenience" XXX,. However, when pressed as to why he had allowed this to continue for the better part of three years, XXX, Dr Hall's evidence was that using false prescriptions thereafter had become a habit.

49. Dr Hall characterised his conduct as "silly" and "stupid" XXX. Although he could not recall the time when he had done this, he had used his new home address on private prescriptions from January 2019. He kept writing false private prescriptions until he was contacted by the GMC after concerns had been raised about him.

50. Initially, Dr Hall could not explain why he had not asked for XXX prescription to be sent to a more convenient pharmacy nearer where he lived, as he currently does. He indicated that he should have known better given XXX were pharmacists. XXX

51. While the Tribunal accepts that Dr Hall's personal life was not an easy one in 2017, it was concerned that Dr Hall continues to use language which could be seen as trivialising the seriousness of his dishonesty, by placing emphasis on the fact that the medication XXX, was not a controlled drug, and was not undertaken with a view to financial gain. There has been little recognition that he gained an advantage by receiving the medication XXX.

52. The Tribunal was of the view that Dr Hall in often answering difficult questions, with "I don't know" or, "I ask myself that question" was deliberately seeking to deflect attention, having had more than two years to reflect on these matters. While he made full admissions in his Rule 7 response and repeated his acknowledgement of wrongdoing, in his explanations of why he acted as he had, he did not provide responses with consistency, such as in indicating whether he used the name of more than one friend with their consent and knowledge.

53. Given a combination of partial explanations as to why he acted why he did, and a tendency to continue to minimise his behaviour, in front of this Tribunal, the Tribunal was clear that Dr Hall's insight is not complete. The Tribunal heard from Dr D, who had become his line manager in April 2021, when Dr Hall sought a new job. Dr D was certain, when questioned by the Tribunal, that Dr Hall had focused on XXX, rather than fraudulently using other names. He said that Dr Hall had not mentioned this, which he would have had greater concerns about and that he was surprised at how many of these prescriptions Dr Hall had written.

54. When asked about the impact of his misconduct, Dr Hall has focused on himself, and this prioritisation on self was evident in his decision to XXX 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 XXX, 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.

55. The Tribunal acknowledged that Dr Hall had found the courses he attended on probity difficult and had had to confront his dishonesty, which clearly impacted his self-perception. The Tribunal was concerned that his dishonest conduct and the gravity of it, was something that he allowed himself to minimise not simply during 2017-2020 but thereafter. Dr Hall's friend of over 30 years, Mr E, had been in regular contact with Dr Hall over the relevant period. In his evidence he shared his disbelief that Dr Hall did not appreciate the seriousness of his misconduct, even when the GMC made contact with him.

56. The Tribunal considered that writing 25 false prescriptions for multiple medications, over a period of 32 months, was deliberate dishonesty. Dr Hall had used a number of names XXX, used headed paper of his medical workplace for a purpose for which it was not intended, and has not been able to provide to this Tribunal any evidence that his misconduct would have stopped, were it not for a pharmacist becoming suspicious after Dr Hall gave her two different names.

57. However, Dr Hall has professed himself willing to undertake a future course on probity, and booked one of these, in order that he be reminded of the importance of making defensible decisions. Dr Hall has learned about himself, and gave the example of selling his car, XXX, so as to remove the temptation to drive, XXX.

58. The Tribunal had regard to the approach to impairment set out in *The Fifth Shipman Report* and incorporated *into CHRE v NMC and Paula Grant [2011] EWHC 927 Admin*:

> *"… 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…"*

59. The Tribunal considered that these elements were engaged in this case.

60. The Tribunal was of the view that Dr Hall is serious about continuing to remediate his wrongdoing. The Tribunal did not consider the misconduct irremediable. Further, it was persuaded that there is no good reason why his journey into developing insight cannot continue. The Tribunal considers that these proceedings have had a salutary effect upon Dr Hall, and it did not think that Dr Hall would XXX contrary to GMP again. However, it 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 is held given the limited insight that Dr Hall has been able to demonstrate to the Tribunal, who was unable to conclude that the risk of repetition was low.

61. The Tribunal was of the view that no patient harm had occurred in this case. Even though Dr Hall had used the names of real people, he had not acted in such a way that their medical records were incorrectly updated, (although he had not addressed his mind to this at the time). His employers have spoken of him doing a job that is as clinically competent as that of his colleagues.

62. The Tribunal 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 failed to uphold the standards of the medical profession and breached its fundamental tenets.

63. Given all the circumstances of this case, the Tribunal determined that a finding of impairment is required to maintain public confidence in the profession and to declare and uphold proper standards of conduct.

Determination on Sanction - 21/11/2022

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

The Evidence

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

3. Further evidence was provided at this stage. Dr Hall gave evidence under affirmation, seeking to emphasise that he did appreciate the consequences of his actions on the wider profession and the public. Short written submissions were also produced.

Submissions

4. On behalf of the GMC, Mr Taylor submitted that the appropriate and proportionate sanction in this case was a matter for the Tribunal. He relied in part on his submissions at the impairment stage, emphasising the deterrent effect of sanction, the need to uphold public confidence in the profession and confidence in the regulatory process. He supplemented these submissions, by referring the Tribunal to various paragraphs within the Sanctions Guidance ('SG'), which sets out considerations for a Tribunal reflecting the primary purpose, advocating the application of the principle of proportionality, and setting out relevant criteria to be taken into account when considering different sanctions.

5. Mr Taylor submitted that in the circumstances of this case it would be inappropriate to take no action. He said that the Tribunal should consider each of the sanctions in turn in terms of ascending seriousness. He commended the SG to the Tribunal in terms of guidance it should follow. Mr Taylor submitted that this was not a case that was appropriate for conditions in circumstances where the Tribunal had found Dr Hall's insight to be limited and further the gravamen of the offending behaviour was dishonesty. He submitted that the criteria for the sanction of suspension applied in part and the submission that he made on behalf of the GMC was that Dr Hall's conduct was not incompatible with practice, requiring erasure.

6. Mr Gledhill indicated that the Tribunal should follow the SG in identifying aggravating and mitigating factors in this case. He also relied in part on his earlier submissions and identified some of the mitigating factors which the Tribunal might consider to apply in this case including insight, apology, difficult personal circumstances and remorse. He indicated that Dr Hall has acknowledged his wrongdoing at the earliest opportunity he could when contacted by the GMC.

7. Dr Hall had given evidence and via Mr Gledhill submitted that he comprehended fully the need to protect the public interest. He indicated that he was conscious of the damage to the profession and to public confidence. Mr Gledhill indicated that Dr Hall recognised the profound unacceptability of his actions, regretted what he had done, and had worked hard to ensure that there is no repetition. Mr Gledhill indicated that Dr Hall is now far more open with others and accordingly is in a very different place today that where he was at the time of his misconduct and is now willing to learn from others.

8. Mr Gledhill pointed out that Dr D had only become Dr Hall's line manager in April 2021, and what he could recall and had been told by Dr Hall about the misconduct should not be held against Dr Hall, who had been contacted by the GMC in late 2020. The suggestion was that Dr D's evidence, which did not appreciate Dr Hall's dishonesty and the use of other names in the writing of multiple prescriptions over a three year period, was not something that Dr Hall had hidden from his employers.

The Tribunal's Determination on Sanction

9. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement. It had regard to the SG.

10. The Tribunal considered the sanctions available, starting with the least restrictive. It has borne in mind that the purpose of a sanction is not to be punitive, but to protect service users and the wider public interest, although it may have a punitive effect. If it chooses to impose a sanction, the sanction should be appropriate and proportionate, although the reputation of the profession as a whole is more important than the interests of any individual practitioner. In this case, it was important that the public interest was protected, which included the trust and confidence of the public in doctors and their regulator, as well as the

declaring and upholding of standards, to remind fellow practitioners of what is acceptable conduct.

11. The Tribunal considered and balanced the aggravating and mitigating factors in this case.

Aggravating factors

12. The Tribunal considered that this case of dishonesty was serious. It was, by Dr Hall's own admission, fuelled in part by convenience and habit, XXX. His offending behaviour continued for 32 months, and only ceased when a pharmacist contacted the GMC with her suspicions about Dr Hall's false prescriptions, and the GMC made contact with him. Had this not occurred, it was likely that Dr Hall would have continued to act in the same way, having adopted the 'habit' of so doing. Dr Hall's actions were pre-meditated and commenced by relying on using the name of a friend who would 'cover' for him if he was found out, and pretend to have been prescribed for, although this was not the case. His acknowledgement of the seriousness of his actions has been slow to develop, with even his best friend indicating how disappointed he was that Dr Hall did not appreciate the gravity of his actions. Even two years after his misconduct came to light, and notwithstanding the counsel of friends, and attendance on professional courses concerning probity, Dr Hall continues to exhibit a tendency to minimise his behaviour, all the while accepting that cognitive dissonance allowed him to minimise in his own mind his wrongdoing at the time.

Mitigating factors

13. The Tribunal acknowledged that Dr Hall had made full admissions when contacted by the GMC. He had apologised and shown remorse. He admitted that his conduct was in part attributable to the difficult personal circumstances he was going through and which have since been addressed, with him purchasing a new home and having a new partner. The Tribunal recognised that Dr Hall is committed to learning about his character and has taken steps to avoid temptation to act in a way that is contrary to the law, by giving the example of selling his car, XXX. The Tribunal was of the view that Dr Hall had demonstrated some insight by acknowledging that he had sought to minimise his wrongdoing at the time, and justify that it fell into a "grey area" rather than it being serious dishonesty. His burgeoning insight, which falls short of understanding why he acted as he did, or being able to explain some of his actions, nonetheless shows he has started on a journey to remediate by undertaking some courses and booking a future one that is scheduled for January 2023.

14. In balancing the aggravating and mitigating factors in this case, the Tribunal was mindful that Dr Hall had made admissions at an early stage when confronted by the GMC, and apologised for his behaviour. The Tribunal accepted Mr Gledhill's submissions regarding the level of detail Dr D would have had given that he only became Dr Hall's line manager in April 2021, after the Rule 7 response had been provided to the GMC. However, the Tribunal also had regard to the serious and grave nature of the behaviour and the fact that Dr Hall was willing to disregard his professional obligations by acting in a way that does not inspire public

trust or confidence. Dr Hall's insight while emerging, still has some way to go, as reflected by his additional evidence at sanction stage, where he attempted to address the Tribunal's perceived shortfall in appreciating the impact of his actions. While Dr Hall did mention the public and the profession, there was no mention of the impact of his behaviour on Medicare, notwithstanding that he used their headed paper to write the false prescriptions, nor on his other employers, given how his dishonesty could reflect upon them.

No action

15. In reaching its decision as to the appropriate sanction, if any, to impose in Dr Hall's case, the Tribunal first considered whether to conclude the case by taking no action. Taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that there are no exceptional circumstances in this case and that, given the seriousness of its findings, it would not be sufficient, proportionate, or in the public interest to conclude this case by taking no action.

Conditions

16. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Hall's registration. The Tribunal was mindful that matters of dishonesty are difficult to address by conditions. Further, the Tribunal was of the view that in any event, given that the dishonesty exhibited by Dr Hall lasted for such a long time, and abused his professional position, it was too serious for conditions to adequately address.

Suspension

17. The Tribunal acknowledged that suspension can have a deterrent effect and can be used as a signal to the profession and the public indicating what is regarded as behaviour unbefitting of a registered doctor. However, the Tribunal was required to determine whether Dr Hall's behaviour would be adequately addressed by this sanction. The Tribunal was of the view that Dr Hall's behaviour was serious. However, it also took into account the context of the offending, which commenced when Dr Hall continued to work during a very difficult time in his personal life and the significant steps that Dr Hall has taken to address his behaviour.

18. The Tribunal had regard to the fact that Dr Hall has over 30 years of good practice, teaches other practitioners, and in 2019 was made a Fellow of the Faculty of Occupational Medicine. While in one sense his long career makes it all the more remarkable that he failed to appreciate the seriousness of using false names on private prescriptions, this spate of dishonesty, although 32 months in length, is the first time in an otherwise unblemished career that he has come to the attention of the GMC. The Tribunal also acknowledged that Dr Hall's employers were pleased with his performance and considered him a valuable member of staff. It further recognised the public interest in not removing a good practitioner from a role in which he can beneficially serve the public.

19. The Tribunal did consider whether erasure would be a more suitable sanction but did not consider that Dr Hall's behaviour was incompatible with continued registration, given his real and repeated efforts to remediate. His burgeoning insight if developed further, would lessen the likelihood of any repetition of dishonesty. A sanction of erasure at this stage was accordingly disproportionate.

20. The Tribunal considered that the duration of the suspension should be for six months. This should serve as a period in which Dr Hall could develop his insight further. Given that two years have elapsed since his offending behaviour was discovered and that insight has not fully developed, no lesser period was considered to be sufficient for Dr Hall to be able to evidence the development of further insight and remediation. The Tribunal was conscious 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.

21. A review hearing will be held before the expiry of the suspension. A reviewing Tribunal may be assisted by the following evidence:

- 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.

Determination on Immediate Order - 21/11/2022

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

Submissions

On behalf of the GMC

2. On behalf of the GMC, Mr Taylor did not apply for an immediate order.

On behalf of Dr Hall

3. Mr Gledhill submitted that an immediate order is not necessary as Dr Hall has continued in unrestricted practice during the course of the GMC investigation.

The Tribunal's Determination

4. In reaching its decision, the Tribunal had regard to its previous determinations and submissions from parties. It also had regard to the Sanctions Guidance (SG).

5. The Tribunal has borne in mind that Dr Hall has continued to work without restriction during the investigation process and that this is not a case where there have been any patient safety issues. In addition, the Tribunal considered that the substantive suspension imposed is sufficient to serve the public interest. The Tribunal therefore determined that an immediate order of suspension was not necessary to protect members of the public, or was otherwise in the public interest, or is in the best interests of the doctor.

6. This means that Dr Hall's registration will be suspended 28 days from when notice of this decision is deemed to have been served upon him, unless he lodges an appeal. If Dr Hall does lodge an appeal, he will remain free to practise unrestricted until the outcome of any appeal is known.

7. There is no interim order to revoke.

8. That concludes the case.