

PUBLIC RECORD

Dates: 16/10/2023 - 24/10/2023

Medical Practitioner's name: Dr Mary McCLOSKEY

GMC reference number: 2725923

Primary medical qualification: MB BCh 1981 National University of Ireland

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

Summary of outcome

Suspension, 6 months.

Tribunal:

Legally Qualified Chair	Mrs Becky Miller
Medical Tribunal Members:	Dr Juliet Bennett, Dr Liz Ball
Tribunal Clerk:	Mr Josh Dayco

Attendance and Representation:

Medical Practitioner:	Not present, represented (16-17 October 2023) Not present, not represented (18-24 October 2023)
Medical Practitioner's Representative:	Ms Alisa Keane (Lay Representative) (16-17 October 2023)
GMC Representative:	Mr Robin Kitching, 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 - 20/10/2023

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

Background

2. Dr McCloskey qualified in 1981 from National University of Ireland. Prior to the events which are the subject of the hearing Dr McCloskey completed her GP training and began working in Community Paediatrics in 1987. Dr McCloskey was a GP Principal at the Racecourse Medical Group, Londonderry from 1990 to 2018. Dr McCloskey retired as a Senior Partner at the Racecourse Medical Group in 2018, but she had returned to work during the pandemic in the out of hours setting.
3. The allegation that has led to Dr McCloskey's hearing can be summarised as follows. On or around 21 August 2021, it is alleged that Dr McCloskey appeared in a video which was uploaded to video sharing platforms and Dr McCloskey made inappropriate statements the Covid-19 pandemic and Covid-19 Vaccines.
4. On or around 24 August 2021, it is alleged that Dr McCloskey appeared in a radio interview which was uploaded to video and audio sharing platforms and made statements about how PCR tests were being used, the use of masks during the Covid-19 pandemic, people who are tasked with keeping us safe and young people at the time of the events.
5. On or around 30 November 2021, it is alleged that Dr McCloskey appeared in a video titled '*The Healthy Debate – with Dr Anne McCloskey + XXX*', which was uploaded to video sharing platforms and made statements about people naming Sars-Cov-2 virus and/or Covid-19 disease variants and nurses working in hospitals at the time of the Covid-19 pandemic.

6. It is alleged that in the videos and radio interviews, Dr McCloskey used her position as a doctor to promote her opinion. It is also alleged that when Dr McCloskey appeared in those videos and radio interviews, Dr McCloskey did so knowing and/or intending that they would be publicly circulated on video and audio sharing platforms.
7. It is alleged that Dr McCloskey's actions as set out above had the potential to undermine public health information, undermine public confidence in the medical profession and discourage members of the public from having a Covid-19 vaccine.
8. The initial concerns were raised with the GMC on 23 August 2021 by Dr Moya McAleavy, Responsible Officer for Health and Social Care Northern Ireland.

The Outcome of Applications Made during the Facts Stage

9. The Tribunal granted Dr McCloskey's application for Ms Keane to represent her at the adjournment application stage. The Tribunal's full decision on the application is included at Annex A.
10. The Tribunal refused the application of Ms Keane, on behalf of Dr McCloskey, to adjourn the hearing. The Tribunal's full decision on the application is included at Annex B.
11. The Tribunal noted the documentation that had been submitted on behalf of the Doctor and considered whether she had intended for it to be provided to the Tribunal. The Tribunal considered the Service Bundle and noted that the Doctor, in response to a question from the GMC about whether these documents (including a number of sworn affidavits) were to be provided to the Tribunal, responded as: *'it is all relevant information and prima facie evidence and prima facie testimony, please take the time read carefully'*. Given that this was directly from the Doctor, the Tribunal determined that the documents that had been presented to them were intended to be submitted, and that a clear request had been made for them to be read carefully as part of these proceedings.
12. The Tribunal granted the GMC's application to proceed in Dr McCloskey's absence. The Tribunal's full decision on the application is included at Annex C.
13. On 17 October 2023, Mr Kitching made an application to amend the Allegation. He submitted that the amendment relates to the date within the stem of paragraph 1 of the

Allegation. Mr Kitching submitted that the GMC was made aware by Dr McCloskey of the correct date within paragraph 1 of the Allegation. The suggested amendment is as follows:

1. *You appeared in a video which was uploaded to video sharing platforms on or around ~~22~~ 21 August 2021, in which you said that:*

14. The Tribunal determined that the amendment can be made without causing injustice to Dr McCloskey. Therefore, the Tribunal granted the GMC's application to amend paragraph 1 of the Allegation.
15. On 18 October 2023 the Tribunal, having received a XXX, again refused to adjourn the hearing. The Tribunal's full decision is included at Annex D.

The Allegation and the Doctor's Response

16. The Allegation made against Dr McCloskey is as follows:

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

1. You appeared in a video which was uploaded to video sharing platforms on or around ~~22~~ 21 August 2021, in which you said that:
Amended under Rule 17(6)

- a. people receiving the Covid-19 vaccines have:
 - i. been coerced;
To be determined
 - ii. been bribed;
To be determined
 - iii. been bullied;
To be determined
 - iv. had their human rights and basic privileges removed,
To be determinedor words to that effect;
- b. the Covid-19 pandemic has largely been a figment of:
 - i. the media;
To be determined

- ii. the government;
To be determined
 - iii. lying scientific advisers’ deceptions,
To be determined
- or words to that effect;
- c. Covid-19 vaccines are not about health, or words to that effect.
To be determined
2. You appeared in a radio interview which was uploaded to video and audio sharing platforms on or around 24 August 2021, in which you said that:
- a. PCR tests were being used:
 - i. as a psychological weapon by governments;
To be determined
 - ii. to push people into fear and terror,
To be determined
- or words to that effect;
- b. the use of masks during the Covid-19 pandemic was to keep us afraid, or words to that effect;
To be determined
 - c. people who are tasked with keeping us safe are being coerced, or words to that effect;
To be determined
 - d. young people are being:
 - i. coerced;
To be determined
 - ii. bullied;
To be determined
 - iii. bribed;
To be determined
 - iv. cajoled,
To be determined
- into receiving the Covid-19 vaccines, or words to that effect;

3. You appeared in a video titled 'The Healthy Debate - with Dr. Anne McCloskey + XXX, which was uploaded to video sharing platforms on or around 30 November 2021, in which you said that:
 - a. people naming Sars-Cov-2 virus and/or Covid-19 disease variants were laughing at the population, or words to that effect;
To be determined
 - b. nurses working in hospitals at the time of the Covid-19 pandemic were:
 - i. doing TikTok videos and learning songs and not working;
To be determined
 - ii. being forced to violate their professional ethics;
To be determined
 - iii. having to enforce a ridiculous mandate,
To be determinedor words to that effect;
4. In the videos and radio interviews referred to at paragraphs 1 – 3, you used your position as a doctor to promote your opinion.
To be determined
5. When you appeared in the videos and radio interviews as referred to at paragraphs 1 – 3 you did so:
 - a. knowing, and/or;
To be determined
 - b. intending,
To be determinedthat they would be publicly circulated on video and audio sharing platforms.
6. Your actions as referred to in paragraphs 1 – 5 had the potential to:
 - a. undermine public health information;
To be determined
 - b. undermine public confidence in the medical profession;
To be determined
 - c. discourage members of the public from having a Covid-19 vaccine.
To be determined

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

To be determined

Documentary Evidence

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

- Transcript of video posted on Facebook;
- Transcript of BBC Radio Ulster Talkback interview;
- Transcript of Twitter broadcast;
- Dr McCloskey's Facebook posts;
- 1192 pages of document from Dr McCloskey including 10 Affidavits and additional hearing material.

Recorded Evidence

18. In addition to the transcripts provided the Tribunal also watched the video posted on Facebook and the Twitter broadcast. The Tribunal listened to the recording of the BBC Radio Ulster Talkback interview.

The Tribunal's Approach

19. In reaching its decision on facts, the Tribunal accepted the following legal advice from the Legally Qualified Chair.

Context

1. When exercising its functions the Tribunal must have particular regard to the statutory overarching objective:
 - a. To protect, promote and maintain the health, safety and wellbeing of the public;
 - b. To promote and maintain public confidence in the medical profession; and
 - c. To promote and maintain proper professional standards and conduct for members of that profession.

How to approach the Allegation

2. In this case none of the Allegation is accepted and must be determined by the Tribunal.
3. The final sentence “And that by reason of the matters set out above your fitness to practice is impaired because of your misconduct” does not require a determination at Stage One.

Burden/Standard

4. The GMC has the burden of proving each aspect of the allegation upon the civil standard, which is upon the balance of probabilities i.e. is it more likely than not that the events occurred. The more serious the allegation the more cogent the evidence will need to be in order to meet that standard. This does not mean that the standard is higher. It means only that the inherent probability or improbability of the conduct occurring is itself a matter to be taken into account when weighing the probability and deciding whether on balance the conduct occurred.
5. The Tribunal will have regard to the case of *Byrne v GMC (2021) EWHC 2237* which stated:
 - a. (1) There is only one civil standard of proof in all civil cases, and that is proof that the fact in issue more probably occurred than not.
 - b. (2) There is no heightened civil standard of proof in particular classes of case. In particular, it is not correct that the more serious the nature of the allegation made, the higher the standard of proof required.
 - c. (3) The inherent probability or improbability of an event is a matter which can be taken into account when weighing the probabilities and in deciding whether the event occurred. Where an event is inherently improbable, it may take better evidence to persuade the judge that it has happened. This goes to the quality of evidence.
 - d. (4) However it does not follow, as a rule of law, that the more serious the allegation, the less likely it is to have occurred. So whilst the court may take account of inherent probabilities, there is no logical or necessary connection between seriousness and probability. Thus, it is not the case that "the more serious the allegation the more cogent the evidence need to prove it"

6. If the Tribunal, having weighed all the evidence in relation an allegation, considers the case is evenly balanced, then the GMC will not have discharged its burden and will not have proved its case.

Credibility/How to approach evidence

7. It is for the Tribunal to determine which evidence assists in discharging its duties to make findings and the weight to be given to that evidence. Decisions must be based upon the evidence alone and not speculation.
8. In this case, there has not been any live witness evidence. The evidence before the Tribunal consists of transcripts of recordings of interviews given for online social media platforms; two video recordings that were available to view and an audio recording that was listened to. Written evidence as compared to live evidence does not, inherently, have greater or lesser weight to be attached to it. The Tribunal are entitled to take into account the evidence before it and attach whatever weight they see fit to it.
9. In assessing the evidence, the Tribunal will consider the case of *Dutta, R (On the Application Of) v General Medical Council (GMC) [2020] EWHC 1974 (Admin) (22 July 2020)* where the judge addressed errors in the approach of the Tribunal. The Tribunal will be mindful of starting with the objective facts as shown by authentic contemporaneous documents, independent of witnesses, and using other evidence as a means of subjecting these to critical scrutiny. It is acknowledged that there has not been any live witness evidence but this is a principle that will need to be taken into account when considering the evidence before the Tribunal and within the deliberations.

Freedom of Expression

10. The Tribunal needs to consider an individual’s right to Freedom of Expression as enshrined within Article 10 of the ECHR and HRA that:

‘Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

11. This is not an unfettered right and this is set out in Article 10(2) of the HRA;

‘The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary’
12. The Tribunal has also been referred to the case of *Adil v GMC [2023] EWHC 797 (Admin)* which concerned with similar facts to these whereby a Doctor was posting videos on social media during the pandemic. The case is also relevant at later stages of these proceedings but does relate to a broadly similar factual matrix. However, as part of the judgment, Mr Justice Swift provided a useful review of the issue of freedom of expression.
13. Mr Justice Swift made it clear that although Article 10 provides a broad right to freedom of expression, it is not an absolute right but is qualified. One of the qualifications specifically identified within article 10(2) is the legitimate aim of pursuing public safety and the protection of health.
14. Mr Justice Swift confirmed that there was no dispute that each of the Tribunal’s decisions on misconduct, impairment and sanction, interfered with Mr A’s Article 10 rights [21]; the question was whether this interference was justified [22], accepting that “[t]he interest in preserving the Article 10 right to freedom of expression is important” [23].
15. The Judge indicated that whilst he must apply Article 10 for himself “when doing so it is right that I attach weight to the Tribunal’s evaluation of the substance of this complaint, so far as it affects matters of professional standing. Moreover, maintaining the good-standing of the medical profession is, for the purposes of Article 10(2), pursuit of a legitimate objective.
16. The Judge considered that the Article 10 right to freedom of expression is a qualified right. He said “Exercise of the right to freedom of expression may be restricted when

necessary, in the interests of public safety, for the protection of public health and for the protection of rights of others. Each of these legitimate objectives was material to the Tribunal’s consideration of [Mr A’s] YouTube videos”, and each of its decisions on misconduct, impairment and sanction, “were not disproportionate interference with [Mr A’s] Article 10 rights” [30].

Conclusion

17. In summary, it is for the Tribunal to determine which evidence assists in discharging its duties to make findings and the weight to be given to that evidence.
18. Decisions must be based upon the evidence alone and not speculation.
19. The GMC must prove all parts of the allegation on the balance of probabilities – it is not for the doctor to disprove them.
20. The Tribunal’s reasons must be outlined in writing.

The Tribunal’s Analysis of the Evidence and Findings

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

Paragraph 1(a) of the Allegation

21. The Tribunal considered whether, on or around 21 August 2021, Dr McCloskey appeared in a video which was uploaded to video sharing platforms and said that people receiving the Covid-19 vaccines have: been coerced; been bribed; been bullied and had their human rights and basic privileges removed, or words to that effect.
22. The Tribunal considered the transcripts from the video provided by the GMC. Dr McCloskey stated the following:

*‘...I dealt with very many sick, distressed, worried, traumatised people. Almost all of them, with the exception of small children, have been double-jabbed; they’ve had two injections of an experimental genetic therapy, having been advised in some case but in other cases **coerced, bribed or bullied because of the removal of their human rights and basic privileges**, such as to travel or to meet with their friends and family, so*

they've accepted these things in good faith.'

23. The Tribunal considered that within the documents provided by Dr McCloskey, she stated:

'...on Saturday 21st August 2021, as part of lawful whistleblowing I made a 10 minute public interest disclosure...'

24. The Tribunal also watched the video made by Dr McCloskey. It noted that at the beginning of the video, Dr McCloskey introduced herself and confirmed that she was a practicing doctor having just come home from an out of hours GP shift. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 1(a) of the Allegation.
25. Therefore, on the balance of probabilities, the Tribunal determined paragraph 1(a) of the Allegation proved.

Paragraph 1(b) of the Allegation

26. The Tribunal considered whether, on or around 21 August 2021, Dr McCloskey appeared in a video which was uploaded to video sharing platforms and said that the Covid-19 pandemic has largely been a figment of: the media; the government; and lying scientific advisers' deceptions, or words to that effect.
27. The Tribunal considered the transcripts from the video provided by the GMC. Dr McCloskey stated the following:

*'In between I spoke to people. I spoke to a woman... although she understands that this is largely illusory; this whole hype has largely been **a figment of the media and the government and their lying scientific advisers' deceptions...**'*

28. The Tribunal considered that within the documents provided by Dr McCloskey, as found in paragraph 1(a) of the Allegation, Dr McCloskey accepted that she made the video as part of her whistleblowing.
29. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 1(b) of the Allegation.

30. Therefore, on the balance of probabilities, the Tribunal determined paragraph 1(b) of the Allegation proved.

Paragraph 1(c) of the Allegation

31. The Tribunal considered whether, on or around 21 August 2021, Dr McCloskey appeared in a video which was uploaded to video sharing platforms and said that Covid-19 vaccines are not about health, or words to that effect.

32. The Tribunal considered the transcripts from the video provided by the GMC. Dr McCloskey stated the following:

*'...let people see that these injections are killing people; they are harming people; they are not preventing sickness and **they are not about health.**'*

33. The Tribunal considered that within the documents provided by Dr McCloskey, as found in paragraph 1(a) of the Allegation, Dr McCloskey accepted that she made the video as part of her whistleblowing.

34. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 1(c) of the Allegation.

35. Therefore, on the balance of probabilities, the Tribunal determined paragraph 1(c) of the Allegation proved.

Paragraph 2(a) of the Allegation

36. The Tribunal considered whether, on around 24 August 2021, Dr McCloskey appeared in a radio interview which was uploaded to video and audio sharing platforms and said that PCR tests were being used: as a psychological weapon by governments; and to push people into fear and terror, or words to that effect.

37. The Tribunal considered the transcripts from the radio interview provided by the GMC. Dr McCloskey stated the following:

'...for the first time ever in medical history we have allowed a test to dictate public health policy and to push people and use it as psychological weapon by governments to push people into fear and terror...'

38. The Tribunal noted that it had the opportunity to listen to the audio recording of the BBC Radio Ulster Talkback Interview, when Dr McCloskey was interviewed. At the outset of the interview, Dr McCloskey was introduced, and she responded to her name: *'Good morning... It's nice to be here'*.
39. The Tribunal noted that there is no evidence before it from Dr McCloskey which relates to this specific allegation.
40. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 2(a) of the Allegation.
41. Therefore, on the balance of probabilities, the Tribunal determined paragraph 2(a) of the Allegation proved.

Paragraph 2(b) of the Allegation

42. The Tribunal considered whether, on around 24 August 2021, Dr McCloskey appeared in a radio interview which was uploaded to video and audio sharing platforms and said that the use of masks during the Covid-19 pandemic was to keep us afraid, or words to that effect.
43. The Tribunal considered the transcripts from the radio interview provided by the GMC. It noted that the topic being discussed was in relation to the Covid-19 pandemic. Dr McCloskey stated the following:

'I would contend that the masks are there to keep us afraid.'
44. The Tribunal noted that there is no evidence before it from Dr McCloskey which relates to this specific allegation.
45. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 2(b) of the Allegation.

46. Therefore, on the balance of probabilities, the Tribunal determined paragraph 2(b) of the Allegation proved.

Paragraph 2(c) of the Allegation

47. The Tribunal considered whether, on around 24 August 2021, Dr McCloskey appeared in a radio interview which was uploaded to video and audio sharing platforms and said that people who are tasked with keeping us safe are being coerced, or words to that effect.
48. The Tribunal considered the transcripts from the radio interview provided by the GMC. Dr McCloskey stated the following:

'The hospitals were empty last year; they are full this year and they are causing untold harm which is not being recorded or measured and it is not being analysed by the people who are tasked to keep us safe and they're being coerced.'

49. The Tribunal noted that there is no evidence before it from Dr McCloskey which relates to this specific allegation.
50. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 2(c) of the Allegation.
51. Therefore, on the balance of probabilities, the Tribunal determined paragraph 2(c) of the Allegation proved.

Paragraph 2(d) of the Allegation

52. The Tribunal considered whether, on around 24 August 2021, Dr McCloskey appeared in a radio interview which was uploaded to video and audio sharing platforms and said that young people are being: coerced; bullied; bribed and cajoled into receiving the Covid-19 vaccines, or words to that effect.
53. The Tribunal considered the transcripts from the radio interview provided by the GMC. Dr McCloskey stated the following:

'Young people are being coerced, bullied, bribed, cajoled, told they can't have their lives back, they can't travel, they can't go to university, they can't take up employment

*unless they accept and get themselves this **green passport** which proves nothing in terms of safety...'*

54. The Tribunal noted that there is no evidence before it from Dr McCloskey which relates to this specific allegation.
55. The Tribunal considered that it was more likely than not that the 'green passport' which Dr McCloskey was referring to, was the Covid-19 'passport' to confirm that people had been vaccinated.
56. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 2(d) of the Allegation.
57. Therefore, on the balance of probabilities, the Tribunal determined paragraph 2(d) of the Allegation proved.

Paragraph 3(a) of the Allegation

58. The Tribunal considered whether Dr McCloskey appeared in a video titled '*The Healthy Debate – with Dr Anne McCloskey + XXX*', which was uploaded to video sharing platforms on or around 30 November 2021 and said that people naming Sars-Cov-2 virus and/or Covid-19 disease variants were laughing at the population, or words to that effect.
59. The Tribunal considered the transcripts from the video provided by the GMC. Dr McCloskey stated the following:

'Well it seems to me with the naming they're actually having a laugh, like using an anagram of moronic. These people are actually laughing at the population, you know, because it was alpha, beta, gamma, delta, or whatever and now it's ---'

60. The Tribunal noted that it had the opportunity to watch the video recording of the Twitter Broadcast of the Health Debate, when Dr McCloskey was interviewed. At the outset of the interview, Dr McCloskey was introduced, and she responded to her name: '*Good evening everybody*'.
61. The Tribunal noted that there is no evidence before it from Dr McCloskey which relates to this specific allegation.

62. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 3(a) of the Allegation.
63. Therefore, on the balance of probabilities, the Tribunal determined paragraph 3(a) of the Allegation proved.

Paragraph 3(b)(i) of the Allegation

64. The Tribunal considered whether Dr McCloskey appeared in a video titled *'The Healthy Debate – with Dr Anne McCloskey + XXX'*, which was uploaded to video sharing platforms on or around 30 November 2021 and said that nurses working in hospitals at the time of the Covid-19 pandemic were doing TikTok videos, learning songs and not working.
65. The Tribunal considered the transcripts from the video provided by the GMC. Dr McCloskey stated the following:

'the nurses working in the hospital at that time were doing TikTok videos and learning songs, and they were not working, and she didn't like that.'

66. The Tribunal noted that there is no evidence before it from Dr McCloskey which relates to this specific allegation.
67. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 3(b)(i) of the Allegation.
68. Therefore, on the balance of probabilities, the Tribunal determined paragraph 3(b)(i) of the Allegation proved.

Paragraph 3(b)(ii) and (iii) of the Allegation

69. The Tribunal considered whether Dr McCloskey appeared in a video titled *'The Healthy Debate – with Dr Anne McCloskey + XXX'*, which was uploaded to video sharing platforms on or around 30 November 2021 and said that nurses working in hospitals at the time of the Covid-19 pandemic were being forced to violate their professional ethics and having to enforce a ridiculous mandate, or words to that effect.

70. The Tribunal considered the transcripts from the video provided by the GMC. Dr McCloskey stated the following:

‘But the nurses working in the hospital at that time were... They’re being forced to violate their professional ethics with every patient contact. They’re having to enforce the ridiculous mandate around testing and checking whether people have had their requirements...’

71. The Tribunal noted that there is no evidence before it from Dr McCloskey which relates to this specific allegation.
72. Given the evidence before it, the Tribunal determined that it was clear that Dr McCloskey made those statements in relation to paragraph 3(b)(ii) and (iii) of the Allegation.
73. Therefore, on the balance of probabilities, the Tribunal determined paragraph 3(b)(ii) and (iii) of the Allegation proved.

Paragraph 4 of the Allegation

74. The Tribunal considered whether in the videos and radio interviews referred to at paragraphs 1, 2 and 3 of the Allegation, Dr McCloskey used her position as a doctor to promote her opinion.
75. The Tribunal considered the transcripts from the video on Facebook provided by the GMC. Dr McCloskey stated the following:

‘Hello, everybody. This is Anne McCloskey here. I am making this wee video in my back room in my home here in Derry. I work as a GP locally.’

76. The Tribunal considered the transcripts from the BBC Radio interview provided by the GMC. It stated the following:

‘...new views posted online by the retired GP Dr Anne McCloskey, who is well-known in Derry where she was a GP for decades...’

77. The Tribunal considered the transcripts from the Twitter Broadcast of the *'The Healthy Debate – with Dr Anne McCloskey + XXX'*, provided by the GMC. It stated:

'Our guests tonight are our old friends, both of them general practitioners, Dr Anne McCloskey from Derry...'

78. The Tribunal considered that within the documents provided by Dr McCloskey, she stated:

'...on Saturday 21st August 2021, as part of lawful whistleblowing I made a 10 minute public interest disclosure.'

79. The Tribunal noted that in the video posted on Facebook, the BBC Radio Ulster Talkback interview and the Twitter Broadcast of *'The Healthy Debate – with Dr Anne McCloskey + XXX'*, Dr McCloskey was recognised as a doctor at the outset which she herself acknowledged.

80. The Tribunal paid particular notice to the video from the 21 August 2021 whereby Dr McCloskey stated that she was making this video having *'just come in from a shift in the out-of-hours GP centre'* and she said that she was *'upset and angry – distraught wouldn't be too strong a word'*.

81. The Tribunal determined that the video of the 21 August 2021 was posted by Dr McCloskey as a direct consequence of her work as a GP and she relied upon her experience and position as a Doctor to support her opinion.

82. The Tribunal determined that the audience of those videos and radio interview knew that Dr McCloskey was a doctor. In addition, given the introductions made, Dr McCloskey herself should have known that the audience of these videos and radio interview would perceive her as a doctor; and therefore give more credence to her opinion as a result of this position.

83. Given the evidence before it, the Tribunal determined that in the videos and radio interviews, Dr McCloskey used her position as a doctor to promote her opinion.

84. Therefore, on the balance of probabilities, the Tribunal determined paragraph 4 of the Allegation proved.

Paragraph 5 of the Allegation

85. The Tribunal considered whether Dr McCloskey appeared in the videos and radio interviews as referred to at paragraph 1, 2 and 3 of the Allegation, she did so knowing and/or intending that they would be publicly circulated on video and audio sharing platforms.

86. The Tribunal considered the transcripts from the video on Facebook provided by the GMC. Dr McCloskey stated the following:

'... we have been doing stuff on social media, we've been having rallies and protests...

I want you to talk to people. I want you to inform yourselves... I have leaflets available. I'm going to get posters made...'

'So I want you to share this video...'

87. The Tribunal considered that within the documents provided by Dr McCloskey, she stated:

'...on Saturday 21st August 2021, as part of lawful whistleblowing I made a 10 minute public interest disclosure...'

88. The Tribunal considered that within the video posted on Facebook, given the evidence before it, Dr McCloskey knew and intended that this video would be publicly circulated on video and audio sharing platforms. In addition, Dr McCloskey herself stated that she made this 10-minute public interest disclosure.

89. In relation to the BBC Radio Ulster Talkback interview, the Tribunal noted that this was a public radio interview, which was publicly broadcasted by the BBC on a mainstream radio channel. The Tribunal considered that by participating in an interview on public radio, Dr McCloskey knew and understood that this would be publicly broadcasted. Given the evidence before it, Dr McCloskey knew and intended that this radio interview would be publicly available and circulated thereafter.

90. In relation to the Twitter Broadcast of *'The Healthy Debate – with Dr Anne McCloskey + XXX'*, the Tribunal noted that it was apparent when watching the video that this was live

and being broadcasted online. The viewers were able to make live comments and the participants of the debate were responding to those comments. The Tribunal also noted that although it was stated on the video that this was not available on mainstream channels, this video was still available to the public. Given the evidence before it, Dr McCloskey knew and intended that this video would be publicly circulated on video and audio sharing platforms.

91. Therefore, on the balance of probabilities, the Tribunal determined paragraph 5 of the Allegation proved.

Paragraph 6(a) of the Allegation

92. When considering Allegation 6, the Tribunal bore in mind that at the time that these videos were broadcast the country had been within the Covid-19 pandemic for approximately 18 months. It was noted that in August 2021 there were concerns being raised about new variants of the coronavirus and the potential impact this would have on society. The Tribunal considered that although the country was no longer in lockdown and was returning to 'normality' there remained significant concern and worry about the disease; how this would develop further over the winter months and whether there would need to be any further restrictive measures imposed. The Tribunal also noted that the vaccination programme in respect of Covid-19 was in progress, including the Autumn booster campaign, and that there was clear public guidance being provided about who should be having the vaccines and how frequently these needed to be administered.
93. The Tribunal clarified that it is not for this Tribunal to decide whether the actions of the government were right or wrong. The Tribunal's duty and statutory role is to determine the Allegation and whether Dr McCloskey had behaved at the standards expected as a Doctor.
94. The Tribunal considered Dr McCloskey's right to freedom of expression and accepted that she had a legitimate right to express concerns and ask questions but this is not an unfettered right. The Tribunal has considered that Dr McCloskey's evidence contains a large volume of information whereby she has approached senior managers, medical bodies and politicians raising concerns about the management of the pandemic. This is not suggested to be outside of her Freedom of Expression and does not form part of the Allegation.

95. The Tribunal has carefully considered that the Article 10 right to freedom of expression carries with it duties and responsibilities and may be subject to such formalities, conditions, restrictions which are necessary in a democratic society, in the interests of public safety and for the protection of health. Both of which are highly pertinent restrictions considering the Covid-19 pandemic and the unprecedented actions that were needed to be taken to ensure the safety and health of the public.
96. The Tribunal considered whether Dr McCloskey's actions in relation to paragraph 1, 2, 3, 4 and 5 of the Allegation had the potential to undermine public health information.
97. The Tribunal had regard to its determination on paragraph 1 to 5 of the Allegation. In addition, the Tribunal considered the transcripts from the video on Facebook provided by the GMC. Dr McCloskey stated the following:

'I'm not sleeping at night, worried about what these injections are doing because they're certainly not improving the health and wellbeing of the community that I am proud and privileged to serve.'

'These injections are doing real harm; they're certainly not providing any visible protection for people and they are still in clinical trials for another two years. They are unlicensed and unapproved.'

'Now, I haven't written the playbook for what is going on but I know it's malevolent and I know that it must be stopped and if we don't stop it, who is going to?'

98. The Tribunal considered the transcripts from the radio interview provided by the GMC. It stated the following:

Q: *'...in some of your writings, some of your commentary, that the PCR test is fraudulent'*

Dr McCloskey: *'Well, in the way it's been used I...'*

Q: *'...in that it cannot detect, that it cannot be used in detecting Covid-19 during this pandemic.'*

Dr McCloskey: *'It can't be used to detect infectivity or active virus infection and it wasn't me who said that it was the man who invented the PCR test and very many other eminent virologists and international scientists.'*

Dr McCloskey: *'This test has been used...*

...to psychologically damage people as a pretext for lockdowns and mask wearing and all of the other paraphernalia that goes along with the current medical...

Q: *'Do you accept what the World Health Organisation says as an authority on this point, that masks do work?'*

Dr McCloskey: *'They don't make a significant and they are not going to make a difference in epidemic...'*

Dr McCloskey: *'This is concerning. These vaccines do not work.'*

99. The Tribunal considered the transcripts from the Twitter Broadcast of the *'The Healthy Debate – with Dr Anne McCloskey + XXX'*, provided by the GMC. Dr McCloskey stated:

'This should stop, this entire mass experiment, in its tracks. Yet there seems to be a complete reluctance on the part of the people who are tasked and paid from the public's purse to look after our health and safety, that they seem to have no sense of responsibility towards the people that they're tasked to protect.'

100. The Tribunal determined that the words and opinions stated went beyond legitimate freedom of expression and that Dr McCloskey was making ominous and inflammatory statements and using alarmist language. The Tribunal considered that there was clear evidence that Dr McCloskey's actions had the potential to undermine public health information and to impact on the health and safety of the public.

101. Therefore, on the balance of probabilities, the Tribunal determined paragraph 6(a) of the Allegation proved.

Paragraph 6(b) of the Allegation

102. The Tribunal considered whether Dr McCloskey's actions in relation to paragraph 1, 2, 3, 4 and 5 of the Allegation had the potential to undermine public confidence in the medical profession.

103. The Tribunal had regard to its determination on paragraph 1 to 5 of the Allegation. In addition, the Tribunal considered the transcripts from the video on Facebook provided by the GMC. Dr McCloskey stated:

'Our NHS is being dismantled. It's not overwhelmed; it's being dismantled in front of our eyes. The GPs don't seem to be available to work in the out-of-hours centre, I hear that they are busy elsewhere...'

104. The Tribunal also considered the transcripts from the radio interview provided by the GMC. Dr McCloskey stated:

'As a practising doctor I've always been told "treat the patient not the test" and for the first time ever in medical history we have allowed a test to dictate public health policy and to push people and use it as a psychological weapon by governments to push people into fear and terror...'

105. The Tribunal considered the transcripts from the Twitter Broadcast of the *'The Healthy Debate – with Dr Anne McCloskey + XXX'*, provided by the GMC. Dr McCloskey stated:

'Well it seems to me with the naming they're actually having a laugh, like using an anagram of moronic. These people are actually laughing at the population, you know, because it was alpha, beta, gamma, delta, or whatever and now it's ---'

'The hospitals were empty last year; they are full this year and they are causing untold harm which is not being recorded or measured and it is not being analysed by the people who are tasked to keep us safe and they're being coerced.'

106. The Tribunal noted that the opinions given by Dr McCloskey were about the medical profession. It also noted that it was significant when Dr McCloskey mocked a Covid-19 variant and called it 'moronic' which detracted from the gravity of the situation. The Tribunal considered that there was clear evidence that Dr McCloskey's actions had the potential to undermine public confidence in the medical profession and that by doing this there was a risk to public health and safety.

107. Therefore, on the balance of probabilities, the Tribunal determined paragraph 6(b) of the Allegation proved.

Paragraph 6(c) of the Allegation

108. The Tribunal considered whether Dr McCloskey’s actions in relation to paragraph 1, 2, 3, 4 and 5 of the Allegation had the potential to discourage members of the public from having a Covid-19 vaccine.

109. The Tribunal had regard to its determination on paragraph 1 to 5 of the Allegation. In addition, the Tribunal also considered the transcripts from the radio interview provided by the GMC. Dr McCloskey stated:

‘Young people are being coerced, bullied, bribed, cajoled, told they can’t have their lives back, they can’t travel, they can’t go to university, they can’t take up employment unless they accept and get themselves this green passport which proves nothing in terms of safety; and the study published from the Oxford Research Group on I think 10 April shows that nasal carriage is 250 times greater in the vaccinated, so there is at least a theoretical risk that we are producing super-spreaders.’

110. The Tribunal considered the transcripts from the Twitter Broadcast of the ‘*The Healthy Debate – with Dr Anne McCloskey + XXX*’, provided by the GMC. Dr McCloskey stated:

‘This should stop, this entire mass experiment, in its tracks... It’s – “unprecedented” is a word we’ve used too often these past 18 months – it’s just – it’s gone from bad to worse. It really is shocking.’

111. The Tribunal also considered the Facebook post shared by Dr McCloskey. It stated: ‘*We are being told to line up our children to get something that might kill them, to protect them from something that can’t kill them’.*

112. The Tribunal noted that the opinions given by Dr McCloskey were intended to influence people’s actions and it was clear that she was discouraging members of the public from having a Covid-19 vaccine. The Tribunal considered that there was clear evidence that Dr McCloskey’s actions had the potential to discourage members of the public from having a Covid-19 vaccine which was in contravention of the public health policy at the time.

113. Therefore, on the balance of probabilities, the Tribunal determined paragraph 6(b) of the Allegation proved.

114. The Tribunal acknowledged that Dr McCloskey was raising concerns in relation to the management of the Covid-19 pandemic and the use of Covid-19 vaccines. However, the vitriolic language Dr McCloskey had used in making those statements in relation to the pandemic went beyond what could be described as legitimate concerns. These broadcasts contained misinformation, inflammatory and ominous statements and used alarmist language which could be confusing to the public with the potential of causing a risk to public health and safety particularly in the context of the Covid-19 pandemic.

The Tribunal's Overall Determination on the Facts

115. The Tribunal has determined the facts as follows:

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

1. You appeared in a video which was uploaded to video sharing platforms on or around ~~22~~ 21 August 2021, in which you said that:
Amended under Rule 17(6)

- a. people receiving the Covid-19 vaccines have:
 - i. been coerced;
Determined and found proved
 - ii. been bribed;
Determined and found proved
 - iii. been bullied;
Determined and found proved
 - iv. had their human rights and basic privileges removed,
Determined and found provedor words to that effect;
- b. the Covid-19 pandemic has largely been a figment of:
 - i. the media;
Determined and found proved
 - ii. the government;
Determined and found proved
 - iii. lying scientific advisers' deceptions,
Determined and found proved

or words to that effect;

- c. Covid-19 vaccines are not about health, or words to that effect.
Determined and found proved

2. You appeared in a radio interview which was uploaded to video and audio sharing platforms on or around 24 August 2021, in which you said that:

- a. PCR tests were being used:
 - i. as a psychological weapon by governments;
Determined and found proved
 - ii. to push people into fear and terror,
Determined and found proved

or words to that effect;

- b. the use of masks during the Covid-19 pandemic was to keep us afraid, or words to that effect;
Determined and found proved
- c. people who are tasked with keeping us safe are being coerced, or words to that effect;
Determined and found proved
- d. young people are being:
 - i. coerced;
Determined and found proved
 - ii. bullied;
Determined and found proved
 - iii. bribed;
Determined and found proved
 - iv. cajoled,
Determined and found proved

into receiving the Covid-19 vaccines, or words to that effect;

3. You appeared in a video titled 'The Healthy Debate - with Dr. Anne McCloskey + XXX, which was uploaded to video sharing platforms on or around 30 November 2021, in which you said that:

- a. people naming Sars-Cov-2 virus and/or Covid-19 disease variants were laughing at the population, or words to that effect;
Determined and found proved
- b. nurses working in hospitals at the time of the Covid-19 pandemic were:
 - i. doing TikTok videos and learning songs and not working;
Determined and found proved
 - ii. being forced to violate their professional ethics;
Determined and found proved
 - iii. having to enforce a ridiculous mandate,
Determined and found proved

or words to that effect;

- 4. In the videos and radio interviews referred to at paragraphs 1 – 3, you used your position as a doctor to promote your opinion.
Determined and found proved
- 5. When you appeared in the videos and radio interviews as referred to at paragraphs 1 – 3 you did so:
 - a. knowing, and/or;
Determined and found proved
 - b. intending,
Determined and found proved

that they would be publicly circulated on video and audio sharing platforms.

- 6. Your actions as referred to in paragraphs 1 – 5 had the potential to:
 - a. undermine public health information;
Determined and found proved
 - b. undermine public confidence in the medical profession;
Determined and found proved
 - c. discourage members of the public from having a Covid-19 vaccine.
Determined and found proved

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

To be determined

Determination on Impairment - 23/10/2023

116. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr McCloskey's fitness to practise is impaired by reason of misconduct.

The Evidence

117. The Tribunal has taken into account all the evidence received during the facts stage of the hearing.

Submissions

118. On behalf of the GMC, Mr Kitching, Counsel, submitted that Dr McCloskey's fitness to practise is impaired by reason of her misconduct. Mr Kitching referred the Tribunal to the relevant paragraphs of Good Medical Practice (2013 edition) (GMP). Mr Kitching invited the Tribunal to take the allegations as a whole, rather than individual paragraphs and sub-paragraphs. He said that the allegations clearly represented a pattern of conduct and submitted that the Tribunal's findings on facts are serious.

119. Mr Kitching submitted that in the Tribunal's determination, it described Dr McCloskey's words as ominous, inflammatory, vitriolic and alarmist. He said that, for those reasons, the GMC submits that the way Dr McCloskey had expressed herself lacked integrity. Mr Kitching also said that the conduct in this case was repeated, the videos and audio interview were broadcasted in order to find as wide audience as possible and that Dr McCloskey used her status as a doctor to lend weight to the opinions that she was expressing.

120. Mr Kitching submitted that Dr McCloskey's conduct could have had serious implications and was undoubtedly serious. He referred the Tribunal to the documents provided. Mr Kitching submitted that Dr McCloskey has no insight into her misconduct and no efforts had been made to remediate the misconduct. Mr Kitching said that the likelihood of repetition remains very high in this case.

121. Dr McCloskey was not present to provide submissions but the Tribunal did consider her bundle of documents in reaching its Determination.

The Relevant Legal Principles

122. In reaching its decision on impairment, the Tribunal accepted the following legal advice from the Legally Qualified Chair.

1. When considering impairment, the Tribunal must have particular regard to the statutory overarching objective:
 - a. To protect, promote and maintain the health, safety and wellbeing of the public;
 - b. To promote and maintain public confidence in the medical profession; and
 - c. To promote and maintain proper professional standards and conduct for members of that profession.
2. There is no burden or standard of proof to adopt.
3. In relation to the Allegation which was found proved, the Tribunal must consider whether the nature and circumstances of the conduct is such that the Doctor's fitness to practice is currently impaired.
4. In relation to the Allegation, the Tribunal must consider:
 - a. whether or not the facts found proved amount to misconduct,
 - b. whether the misconduct was serious
 - c. and whether the misconduct, that was serious, leads to a finding of impairment.
5. There are two distinct processes: firstly, to consider whether there has been serious misconduct and secondly, to consider whether this leads to a finding of impairment.
6. There is no legal definition for the word "serious" and the word should be given its ordinary meaning.
7. Serious professional misconduct has been described in case law as "conduct which would be regarded as deplorable by fellow practitioners."

8. For the purpose of fitness to practice proceedings, “misconduct” is defined as follows:

“...some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances.”

9. Where a tribunal finds misconduct the tribunal should be clear on whether this amounts to a significant departure from the guidance in Good Medical Practice or not.

10. The Tribunal will need to bear in mind the case of *General Medical Council v Meadow [2006] EWCA Civ 1390* in which it was held:

‘...the purpose of FTP proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. The FTP thus looks forward not back. However, in order to form a view as to the fitness of a person to practise today, it is evident that it will have to take account of the way in which the person concerned has acted or failed to act in the past.’

11. The Tribunal must determine whether the Doctor’s fitness to practice is impaired today, taking into account:

- a. his conduct at the time of the events;
- b. whether the matters are remediable;
- c. whether they have been remedied; and
- d. the likelihood of repetition.

12. When considering whether fitness to practice is currently impaired, *CHRE v NMC and Paula Grant [2011] EWHC 927 (paragraph 76)* endorsed the following test, formulated by Dame Janet Smith in the Fifth Shipman Report:

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

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

13. The Tribunal must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.

14. The Tribunal shall consider any paragraphs of Good Medical Practice it believes is applicable. It must consider the version of Good Medical Practice that was in force at the date of the Allegation. Here this is the most recent version of GMP (2013).

15. The decision on impairment is a matter for the Tribunal’s judgement alone.

16. Written reasons must be given for the Tribunal’s decision.

The Tribunal’s Determination on Impairment

Misconduct

123. In determining whether Dr McCloskey’s fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amounted to misconduct.

124. The Tribunal considered its previous determination, whereby it found that within the Facebook video, the BBC Radio Ulster Talkback interview and the Twitter Broadcast video titled *‘The Healthy Debate - with Dr Anne McCloskey + XXX’*, Dr McCloskey had used her

position as a doctor to promote her opinion. Dr McCloskey also knew and intended that those would be publicly circulated on video and audio sharing platforms.

125. The Tribunal also found that Dr McCloskey's actions in relation to paragraph 1 to 5 of the Allegation had the potential to undermine public health information, undermine public confidence in the medical profession and discourage members of the public from having a Covid-19 vaccine.

126. The Tribunal also considered that the following paragraphs of GMP are engaged in this case.

4 You must use your judgement in applying the principles to the various situations you will face as a doctor, whether or not you hold a licence to practise, whatever field of medicine you work in, and whether or not you routinely see patients. You must be prepared to explain and justify your decisions and actions.

35 You must work collaboratively with colleagues, respecting their skills and contributions.

36 You must treat colleagues fairly and with respect.

37 You must be aware of how your behaviour may influence others within and outside the team.

48 You must treat patients fairly and with respect whatever their life choices and beliefs.

49 You must work in partnership with patients, sharing with them the information they will need to make decisions about their care...

54 You must not express your personal beliefs (including political, religious and moral beliefs) to patients in ways that exploit their vulnerability or are likely to cause them distress.

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

68 You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.

127. The Tribunal considered paragraph 17 of the Doctors' use of social media guidance (2013). It stated:

17 ...Any material written by authors who represent themselves as doctors is likely to be taken on trust and may reasonably be taken to represent the views of the profession more widely.

128. The Tribunal was also of the view that this paragraph from the Doctors' use of social media guidance (2013) is engaged in this case.

129. The Tribunal recognised Dr McCloskey must have felt that she was acting in respect of patient safety to raise concerns about the Covid-19 vaccination. The Tribunal noted that it would be reasonable to raise legitimate concerns in an appropriate way given the unprecedented public health situation at the time. However, Dr McCloskey's actions went beyond what was expected from GMP and her Article 10 right to freedom of expression when considered in respect of the need to protect public health and safety due to the Covid-19 pandemic.

130. The Tribunal considered that Dr McCloskey had used her judgement poorly, she has not shown any awareness of how her behaviour would adversely influence the public and that she undermined her medical colleagues, when she did not respect their contribution with regards to management of the pandemic.

131. The Tribunal noted that, at the time, the general public was vulnerable given the Covid-19 pandemic. Dr McCloskey was not simply providing guidance and information to the public. Given the vitriolic language she had used, Dr McCloskey was causing alarm and was forcing her own opinion on the general public.

132. The Tribunal determined that in relation to the Facebook video, the BBC Radio Ulster Talkback audio interview and the Twitter Broadcast video titled '*The Healthy Debate - with Dr Anne McCloskey + XXX*', Dr McCloskey's actions were repeated. These were also publicly broadcasted to reach a wide audience and that Dr McCloskey had used her position as a doctor to promote her opinion. The Tribunal was of the view that Dr

McCloskey's actions could have had serious repercussions; she could have influenced members of the public not to follow the national guidance at the time.

133. The Tribunal considered that members of the medical profession would find this conduct serious and deplorable.

134. Therefore, the Tribunal found that Dr McCloskey's actions fell below standards expected of a registered doctor and found that this amounts to misconduct, which was serious.

Impairment

135. Having found that the facts found proved amounted to serious misconduct, the Tribunal went on to consider whether, as a result of that conduct, Dr McCloskey's fitness to practise is currently impaired.

136. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal looked for evidence of remediation and insight, and the likelihood of repetition, balanced against the three elements of the overarching statutory objective.

137. The Tribunal noted that there is no evidence to suggest that Dr McCloskey is not a competent doctor. In fact, the Tribunal is not aware of any issues raised within approximately 40 years of service to her patients and to the public.

138. In relation to insight and remediation, the Tribunal noted that it does not have any evidence to support Dr McCloskey's current level of insight or any evidence to demonstrate that Dr McCloskey had remediated her actions. It also noted that it does not have any evidence from Dr McCloskey to explain her actions in relation to her misconduct and that she had not offered any apology or shown remorse. There was also no acknowledgement from Dr McCloskey of the effect of her conduct upon members of the profession and the public.

139. In relation to the risk of repetition, the Tribunal considered that Dr McCloskey's actions took place at a time when there was an unprecedented risk to public health due to Covid-19 pandemic. There was uncertainty about the nature of the virus and its variants; Covid-19 vaccines and the ability to control the virus. In that context, the Tribunal considered that a repetition of the serious misconduct in exactly the same circumstances would be low, given the unusual situation experienced during the Covid-19 pandemic.

However, a risk of Dr McCloskey expressing views and undertaking actions, which would constitute a risk to public health and safety, remains given her lack of recognition of her serious misconduct.

140. The Tribunal had regard to paragraph 76 of the judgment in the case of *Grant*. In the present case, the Tribunal considered that limbs a, b and c are engaged.

141. The Tribunal determined that the public expects to be able to trust doctors. The public expects doctors to act with integrity and not to act against a patient's best interests. They expect doctors to adhere to the principles set out in GMP. Where doctors fail to do so in a significant way, public trust in the profession is undermined and a finding of impairment of fitness to practise is required.

142. Therefore, the Tribunal determined that Dr McCloskey's fitness to practise is currently impaired by reason of misconduct in order to:

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

Determination on Sanction - 24/10/2023

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

The Evidence

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

Submissions

145. On behalf of the GMC, Mr Kitching, Counsel, submitted that the appropriate sanction in this case is a period of suspension. He referred the Tribunal to the relevant paragraphs of

the Sanctions Guidance (November 2020 edition) ('the SG'). Mr Kitching also referred to the Tribunal's determination on facts and impairment.

146. Mr Kitching submitted that this is a serious case and that all three strands of the overarching objective are engaged by the facts of this case. Mr Kitching submitted that there are no exceptional circumstances in this case and taking no action would be inappropriate given the seriousness of the Tribunal's findings. He also submitted that a period of conditions would not be proportionate in this case. Mr Kitching said that the facts found proved in this case are serious but not fundamentally incompatible with continued registration. Therefore, Mr Kitching submitted that the appropriate sanction is one of suspension towards the upper end of the maximum period available to the Tribunal. He also submitted that a review is necessary given the findings of the Tribunal in relation to Dr McCloskey's insight and the seriousness of the misconduct.

147. The Tribunal noted that Dr McCloskey was not present and did not make any submissions regarding sanctions but considered her comments made within the documents provided.

The Tribunal's Approach to Sanction

148. The Tribunal bore in mind that the decision as to the appropriate sanction, if any, to impose in this case is a matter for the Tribunal exercising its own judgement.

149. In reaching its decision, the Tribunal has taken into account the SG. It has borne in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

150. It must consider the sanctions available, starting with the least restrictive, and consider the principle of proportionality. The Tribunal must balance Dr McCloskey's interests with the public interest, and also take into account the statutory overarching objective and its duty to protect the public.

Aggravating and Mitigating Factors

151. Before deciding what action, if any, to take in respect of Dr McCloskey's registration, the Tribunal considered the aggravating and mitigating factors present in this case.

152. The Tribunal identified the following to be aggravating factors:

- Dr McCloskey's lack of insight into her actions and remediation;
- The absence of Dr McCloskey's apology, remorse and acceptance of her actions, which were inappropriate;
- Dr McCloskey's actions had the potential to undermine the public confidence in the medical profession;
- Dr McCloskey used her position as doctor to promote her own opinion to the public.

153. It considered the following mitigating factors to be of relevance:

- Dr McCloskey's lengthy career (approximately 40 years), in which time there have not been any other misconduct issues raised;
- No evidence that Dr McCloskey had previously acted in the same manner found in this case;
- It had been approximately two years since the events relating to this case occurred and there have not been any further allegations of behaviour of a similar nature;
- Dr McCloskey has complied with the interim order.

The Tribunal's Determination on Sanction

154. Having considered possible aggravating and mitigating factors, the Tribunal reminded itself that it must consider each of the sanctions available, starting with the least restrictive, taking account of the current SG.

No Action

155. In coming to its decision as to the appropriate sanction, the Tribunal first considered whether to conclude the case by taking no action. The Tribunal reminded itself that there should be exceptional circumstances to justify taking no action where a finding of impairment has been made.

156. The Tribunal considered that there were no exceptional circumstances to justify taking no action in this case. It determined that given the serious nature of the Tribunal's

findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action.

Conditions

157. The Tribunal next considered whether it would be sufficient to impose conditions on Dr McCloskey's registration. The Tribunal had regard to the various paragraphs of the SG, which indicate the types of cases in which conditions might be appropriate. The Tribunal considered that any order of conditions would need to be appropriate, proportionate, workable and measurable.

158. The Tribunal determined that there are currently no concerns regarding Dr McCloskey's clinical practice. Whilst the Tribunal recognised that paragraph 81 does not exhaustively limit the circumstances in which conditions might be appropriate, the Tribunal concluded that conditions would neither be appropriate nor workable. Therefore, the Tribunal determined that an order of conditions would not be appropriate or proportionate, nor would it be in the public interest.

Suspension

159. The Tribunal then went on to consider whether imposing a period of suspension on Dr McCloskey's registration would be appropriate and proportionate. In doing so, the Tribunal had regard to the following paragraphs of the SG:

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

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

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

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

...

f No evidence of repetition of similar behaviour since incident.

160. The Tribunal concluded that all of the factors set out above apply in this case.

161. The Tribunal noted that Dr McCloskey’s misconduct is serious but determined that it falls short of being fundamentally incompatible with continued registration. It noted that Dr McCloskey’s actions occurred within the Covid-19 pandemic which was a rare public health occurrence and the particular circumstances found at that time are no longer prevalent. The Tribunal noted that the public now has a greater understanding of the disease and how it is treated thus the state of fear and anxiety regarding Covid-19 is no longer widespread and the impact of her actions is likely to be less.

162. In all of the circumstances, the Tribunal determined that a period of suspension would be sufficient to mark the seriousness of Dr McCloskey’s misconduct and send a signal to the doctor, the profession and the public. It also determined that a period of suspension would maintain public confidence in the profession and uphold proper professional standards of conduct expected of a registered doctor.

163. Turning to the duration of the suspension, the Tribunal determined that a period of six months suspension would be the most appropriate length of sanction in this case. It considered that such period would enable Dr McCloskey to have the opportunity to develop insight. It also allows Dr McCloskey to demonstrate and take steps to remediate her actions.

164. Accordingly, the Tribunal determined to impose a period of six-month suspension on Dr McCloskey’s registration.

Review Hearing Directed

165. The Tribunal determined to direct a review of Dr McCloskey's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr McCloskey to demonstrate how she has remediated and developed insight into her actions. It therefore may assist the reviewing Tribunal if Dr McCloskey provides the following:

- Evidence of insight and remediation into her misconduct;
- Reflective statement which shows her remorse and understanding the impact of her actions;
- Evidence that she has kept her clinical knowledge up to date;
- Any other information which Dr McCloskey considers would assist the reviewing Tribunal.

Determination on Immediate Order - 24/10/2023

166. Having determined to suspend Dr McCloskey's registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr McCloskey's registration should be subject to an immediate order.

Submissions

167. On behalf of the GMC, Mr Kitching, Counsel, submitted that an immediate order of suspension is necessary in this case. He said that there are significant public interest concerns in the sense of public confidence in the profession and given the Tribunal's finding of a likelihood of repetition, an immediate order is necessary in this case. Mr Kitching also submitted that the current interim order of suspension should be revoked.

The Tribunal's Determination

168. In reaching its decision, the Tribunal has exercised its own judgement, and has taken account of the principle of proportionality. The Tribunal has borne in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public or otherwise in the public interest or is in the best interests of the practitioner. It has also borne in mind the guidance given in paragraphs 172, 173, and 178 of the SG, which states:

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

173 An immediate order might be particularly appropriate... where immediate action must be taken to protect public confidence in the medical profession.

178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.

169. The Tribunal bore in mind the above paragraphs of the SG and took account of the specific basis upon which the Tribunal reached its determination on impairment and sanction. The Tribunal determined that an immediate order of suspension is necessary to protect members of the public, to protect confidence in the medical profession and is in the wider public interest.

170. This means that Dr McCloskey's registration will be suspended from the date on which notification of this decision is deemed to have been served upon her. The substantive direction, as already announced, will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

171. The interim order will be revoked when the immediate order takes effect.

172. That concludes the case.

ANNEX A – 16/10/2023

Application for Dr Mary McCloskey to be represented by Ms Alisa Keane

173. The Tribunal received a correspondence from Dr McCloskey dated 15 October 2023. She made an application for Ms Keane to represent her at this hearing to make representations in relation to an application to adjourn the hearing.

174. Dr McCloskey stated that Ms Keane is her friend and does not have any legal training or qualification. However, Dr McCloskey said that Ms Keane had assisted her at the HM Court of Appeal in Northern Ireland as her ‘McKenzie Friend’. Dr McCloskey also stated that Ms Keane had never been prosecuted, disciplined by a legal professional body or found in contempt of court.

175. On behalf of the GMC, Mr Kitching, Counsel did not oppose this application.

Tribunal’s Decision

176. The Tribunal had regard to Rule 33 of the Rules which states:

‘(1) At a hearing, the practitioner may be represented by:

(a) a solicitor or counsel;

(b) a representative from any professional organisation of which he is a member; or

(c) at the discretion of the Committee or Tribunal, a member of his family or other suitable person.

(2) A person who gives evidence at a hearing shall not be entitled to represent or accompany the practitioner at that hearing.

(3) The practitioner (either in person or by a representative under paragraph (1)) and the representative for the GMC shall be entitled to be heard by the Committee or Tribunal.’

177. The Tribunal considered that there was nothing before it to suggest that Ms Keane would not be a ‘fit and proper’ person to represent Dr McCloskey at this hearing. It took account of the need for this hearing to proceed fairly to both parties and expeditiously. The Tribunal exercised its discretion and determined to allow Ms Keane to represent Dr McCloskey in this hearing to make representations on the adjournment application. The Tribunal noted that this application was in respect of the adjournment application only and not for Ms Keane to represent Doctor McCloskey throughout the hearing.

ANNEX B – 17/10/2023

Application to adjourn the hearing

178. Ms Keane, on behalf of Dr McCloskey, made an application to adjourn the hearing. The Tribunal heard the detailed submissions from both Ms Keane and Mr Kitching, on behalf of the GMC, all of which are on the records. The following are a non-verbatim summary of the submissions made by both parties.

179. Ms Keane made submissions referencing the 24 page document filed in respect of the adjournment application. The key submissions were that if the case proceeds, Dr McCloskey will be discriminated against and denied her due process of the law. Ms Keane, on behalf of Dr McCloskey, set out that if the case proceeds it will not be dealt with fairly and justly and that Dr McCloskey will be denied her right to a fair trial and her right enshrined within the Medical Act 1983 and the European Convention of Human Rights.

180. Ms Keane submitted that two of the members of the Tribunal share the same Responsible Officer. She said that this is a conflict of interest, is not impartial and is not independent. She said that the GMC is rushing to justice on this case. Ms Keane also said that Dr McCloskey had not received a full disclosure from the GMC and that Dr McCloskey needs a fair chance to put forward a defence. It was highlighted that Dr McCloskey is no longer represented and is a litigant in person, therefore needs more time to allow her to be on an equal footing and prepare her case. Ms Keane submitted that there are serious irregularities and abuse of process in this case.

181. Ms Keane referred the Tribunal to XXX. Ms Keane also referred the Tribunal to the adjournment application granted by the Court of Appeal. She said that the GMC did not

oppose this adjournment and that Dr McCloskey requires similar consideration within these proceedings.

182. Ms Keane referred the Tribunal to the decision of a Case Manager from the MPTS to postpone the hearing. She said that the decision made was defective due to serious errors which were unjust, unfair and unreasonable. Ms Keane submitted that Ms A who was acting as the Case Manager aimed to mislead Dr McCloskey into thinking that she was impartial. Ms Keane said that in fact, *‘Ms A “works at The General Medical Council” according to the Solicitor’s Regulatory Authority’*.
183. On behalf of the GMC, Mr Kitching, Counsel, submitted that the GMC does not understand the conflict of interest which arises from both Medical Tribunal Members having the same Responsible Officer and that this application is without merit. XXX.
184. In relation to procedural irregularities, Mr Kitching submitted that given the evidence within the documents, Dr McCloskey had full disclosure from the GMC. In relation to the Interim Orders Tribunal issues, Mr Kitching submitted that regardless of the outcome of this case, if it proceeds to a final determination, the interim order will not have any effect. Mr Kitching submitted that of the 300 pages of material sent to Dr McCloskey on 12 September 2023, approximately 290 pages were material that Dr McCloskey had received before. In relation to the postponement application, Mr Kitching submitted that the reasoning of the Case Manager was sound and that clear terms were set out as to why the application was refused.
185. Mr Kitching submitted that this is a straightforward case and that Dr McCloskey had eight months to prepare. Mr Kitching said that Dr McCloskey is well capable of representing herself.

Tribunal’s Decision

186. In reaching its decision, the Tribunal took account of the submissions from both parties and the advice from the Legally Qualified Chair, as follows:
1. The General Medical Council (Constitution of Panels, Tribunals and Investigation Committee) Rules Order of Council 2015 sets out the statutory requirement for the composition of an MPTS Tribunal Panel which includes at least one medical member

and a Chair.

2. The Tribunal must have regard to the rights enshrined within the European Convention of Human Rights which include the Article 6 right to a fair trial and the Article 8 right to a private and family life.
3. XXX.
4. In *Adeogba v GMC [2016] EWCA Civ 162* the Court of Appeal held that the starting point when considering to proceed in absence is as outlined within the criminal case of *R v Jones [2001]*, EWCA Crim 168 in which it was detailed that consideration should be taken of the following factors:
 - a. The reasons for the absence,
 - b. whether an adjournment may result in attendance at a future hearing,
 - c. the likely length of such an adjournment,
 - d. whether the defendant wishes to be represented,
 - e. whether any representatives are able to receive instructions during the hearing and the extent to which they are able to present a defence,
 - f. the extent of the disadvantage to the defendant of not being able to give his account of events,
 - g. the risk of there being an improper conclusion about his absence,
 - h. the seriousness of the allegations,
 - i. the public interest and the particular interest of victims and witnesses that hearings take place within a reasonable time,
 - j. the effect of delay on the memory of witnesses and the effects upon any co-defendant.
5. Sir Brian Leveson in *Adeogba* highlighted the difference between criminal trials and disciplinary hearings. The latter must be guided by the overarching statutory objective. He said that the fair, economical, expeditious and efficient disposal of allegations is of very real importance. It would run entirely counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner

could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage in the process. Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed. There is a burden upon Registrants to engage with their regulator.

6. The more recent case of *Ramaswamy v GMC* [[2021] EWHC 1619 (Admin)] has also been considered as reinforcing the key considerations in the case of *Adeogba* referenced above which are relevant when considering an application for adjournment. The Tribunal should bear in mind the following when reaching its decision:
 - a. The starting point is the approach, in criminal law, to trial in the absence of the defendant, namely the discretion to proceed must be exercised with great care, fairness to both sides must be taken into account, and fairness to the defence is of prime importance.
 - b. Amongst the factors relevant to whether to proceed in absence are whether an adjournment might result in the defendant attending, the likely length of any adjournment, the extent of the disadvantage to the defendant, and the general public interest.
 - c. However there is a difference between a criminal trial and disciplinary proceedings - in the latter the decision must also be guided by the over-arching objective in section 1(1A). The fair, economical, expeditious and efficient disposal of allegations is of very real importance.
 - d. Fairness to the medical practitioner is of prime importance and a prime consideration; fairness to the GMC and the interests of the public must also be taken into account.
 - e. There is a burden on practitioners to engage with the regulator, in relation to the investigation and resolution of allegations made against them.
 - f. It would run counter to the GMC's over-arching objective if a practitioner could effectively frustrate the process and challenge a refusal to adjourn when that practitioner has deliberately failed to engage in the process.
 - g. However, where there is good reason not to proceed, the case should be adjourned. Where there is no such good reason, the case should proceed.
 - h. Ultimately, the discretion whether or not to proceed must be exercised having regard to all the circumstances of which the Tribunal is aware, taking account of the above features.
7. The decision of whether to proceed with the hearing is for the Tribunal alone to decide, and reasons for their decision should be given in writing.

Service

8. The Tribunal is satisfied that Dr McCloskey has been served and is aware of these proceedings. She has been involved prior to this hearing commencing and has provided a number of lengthy documents in support of her application for representation by a lay person; her application for adjournment and her general defence of the substantive Allegation.

Tribunal Constitution

187. The Tribunal first considered the constitution of the Tribunal. Within the Rules relating to the formation of the Tribunal it stated that within a Tribunal, there must be a medical member and a member who is on the chair's list. The Tribunal considered the statutory requirements and found that even though this Tribunal consists of two medical members, it does not mean that this is not a properly constituted Tribunal. The Tribunal is satisfied that the Tribunal is an appropriately constituted Panel.

188. The Tribunal then considered the issue raised by Ms Keane in relation to the two medical members having the same regional Responsible Officer. The Tribunal noted that this was a regional allocation and that there had been no shared management, duties or any involvement between the two medical members of the Tribunal prior to this hearing. Therefore, the Tribunal determined that the constitution of the Tribunal does not lead to inherent bias or conflict of interest.

XXX

189. XXX

190. XXX

191. XXX

Lack of Legal Representation

192. The Tribunal then considered the lack of legal representation issue. The Tribunal considered that Dr McCloskey was legally represented until 4 September 2023 and did have the benefit of legal advice during the course of the investigation and preliminary stages of this process. The Tribunal noted that Dr McCloskey had not specifically said that she would seek legal representation and is not seeking an adjournment to allow this to

happen. In fact, Dr McCloskey was clear on a number of occasions in the documentation provided that she is the only person who can defend herself.

Documentation issue

193. The Tribunal noted that the preliminary stages of this process had been progressing for over eight months and that the majority of the paperwork had been provided prior to the substantive bundle. Dr McCloskey was represented throughout these stages and would have been entitled to advice and support during this time. The Tribunal has considered that much of the documentation should have been within Dr McCloskey's knowledge prior to being provided with the 300 page bundle. In any event, the Tribunal was of the view that 300 pages was not a huge undertaking and would have been manageable for Dr McCloskey to prepare her case within the six weeks she had available to her prior to this hearing. In addition, it was clear given the detailed documents that she had submitted over the weekend for the consideration of the Tribunal that Dr McCloskey is able to consider information and present her case clearly. The Tribunal does not consider that there is a 'rush to finish this case' as the investigation and process has been ongoing for almost 2 years and the requirement for an MPTS hearing has been known for approximately eight months.

Case Manager issue

194. The Tribunal considered the Case Manager issue raised by Ms Keane. It noted that this application to adjourn is not an appeal of the Case Manager's decision. This application is a separate matter, and the consideration of this Tribunal is independent, regardless of whether the Case Manager works with the GMC or not.

195. The Tribunal reiterated that the MPTS is an independent statutory body, and its process is completely separate. Therefore, the application to adjourn before this Tribunal was considered on its own merits.

Conclusion

196. Given the circumstances of this case and its findings as set out above, the Tribunal refused the application to adjourn this hearing. However, the Tribunal indicated that if Dr McCloskey wishes to participate in this hearing, the Tribunal would consider her attendance either in-person or remotely. In addition, the Tribunal will consider any

reasonable adjustments that are requested to enable Dr McCloskey to meaningfully participate in this hearing.

ANNEX C – 17/10/2023

Application to proceed in Dr McCloskey's absence

197. On 17 October 2023, the Tribunal determined to refuse the adjournment application made on behalf of Dr McCloskey. Dr McCloskey was not present. However, the Tribunal considered her request for Ms Keane to represent her for the adjournment application only. The Tribunal granted this application. In light of the Tribunal's refusal to adjourn the hearing, it must now determine whether to proceed in Dr McCloskey's absence, given that Ms Keane was only allowed to represent Dr McCloskey during the adjournment application.

198. On behalf of the GMC, Mr Kitching, Counsel, submitted that Dr McCloskey has voluntarily absented herself from these proceedings. He said that there is an absence of any proper explanation as to why Dr McCloskey has not participated or not attended either in person or by video link.

The Tribunal's Decision

199. The Tribunal noted that the issues that require consideration in relation to Dr McCloskey's absence in this hearing had been dealt with as part of the adjournment application.

200. The Tribunal also noted that following its decision to refuse the adjournment application, it gave Dr McCloskey a further opportunity to participate in these proceedings. However, the Tribunal had not received any correspondence from Dr McCloskey.

201. The Tribunal determined that Dr McCloskey had voluntarily absented herself from these proceedings. The Tribunal was satisfied that it could deal with this case fairly. Therefore, the Tribunal determined to proceed in Dr McCloskey's absence.

ANNEX D – 18/10/2023

Renewed application to adjourn

202. On 18 October 2023, the Tribunal was XXX. The Tribunal noted that there was no request to revisit the application to adjourn. However, the Tribunal is doing so in fairness to Dr McCloskey who is not present and not represented in this case.

203. On behalf of the GMC, Mr Kitching, Counsel, submitted XXX

Tribunal's Decision

204. In reaching its decision, the Tribunal took account of all the evidence and submissions made before it. The Tribunal also took account of the advice from the Legally Qualified Chair.

205. The Tribunal first considered its previous determination to adjourn. It noted that nothing substantive has changed from the previous factors set out within the previous adjournment application, which the Tribunal has already ruled upon and provided its written Determination to the Doctor. The only new evidence before the Tribunal today is XXX

206. The Tribunal considered XXX

207. XXX

208. XXX.

209. The Tribunal has carefully considered the words of Sir Brian Leveson in *Adeogba* where he said that the fair, economical, expeditious and efficient disposal of allegations is of very real importance. He said that it would run entirely counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage in the process. Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed. There is a burden upon Registrants to engage with their regulator.

210. The Tribunal noted that it had XXX.

211. In all of the circumstances, the Tribunal determined that there is not a good reason to adjourn the hearing and the hearing shall proceed.