

PUBLIC RECORD

Dates: 01/07/2024 - 09/07/2024; 16/12/2024 – 19/12/2024

Medical Practitioner's name: Dr Mitra MAHDAVI
GMC reference number: 6036068
Primary medical qualification: MD 2000 Islamic Azad University

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

Summary of outcome

Erasure
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Sean Ell
Lay Tribunal Member:	Mr Colin Sturgeon
Medical Tribunal Member:	Dr David Mabin

Tribunal Clerk:	Ms Evelyn Kramer (1-9 July 2024) Mr Josh Dayco (5 July 2024) Mr Rowan Barratt (16-17 December 2024) Ms Racheal Gill (18-19 December 2024)
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Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Mr Ciaran Rankin, 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 - 09/07/2024

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

Background

2. Dr Mahdavi qualified in 2000 from Islamic Azad University, Iran. Prior to the events which are the subject of the hearing Dr Mahdavi was practising as a General Practitioner (GP) in London.

3. The Allegation that has led to Dr Mahdavi's hearing can be summarised as on 22 August 2022, Dr Mahdavi was suspended from the National Medical Performers List ('NMPL'). It is alleged that on a number of occasions between 21 October and 25 November 2022, Dr Mahdavi worked as a locum GP for Key Medical Services ('KMS') whilst knowing that she was suspended from the NMPL. It was alleged that Dr Mahdavi's actions were dishonest.

4. The initial concerns were raised with the GMC by Mr A from NHS England on 15 December 2022.

The Outcome of Applications Made during the Facts Stage

5. The Tribunal refused Dr Mahdavi's application, made pursuant to Rule 29(2) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to adjourn the hearing for two weeks. The Tribunal's full decision on the application is included at Annex A.

6. The Tribunal issued Case Management directions to Dr Mahdavi. The Tribunal’s full directions are included at Annex B.
7. The Tribunal varied its Case Management directions to Dr Mahdavi. The details of the variation to the directions are included at Annex C.
8. The Tribunal determined to adjourn the hearing for the day on day three of the hearing (3 July 2024) and further varied its directions to Dr Mahdavi. The Tribunal’s determination on adjournment and directions is included at Annex D.
9. The Tribunal determined to adjourn the hearing for the day on day four of the hearing (4 July 2024). The Tribunal’s determination is included at Annex E.
10. At various points during the hearing the Tribunal agreed to accept into evidence further documentation Dr Mahdavi sought to rely upon. The Tribunal also determined to grant an application made by the GMC for an email from Mr A to be admitted into evidence. Neither party opposed the admissibility of the other’s additional evidence and the Tribunal determined to admit all of the evidence under Rule 34(1).

The Allegation and the Doctor’s Response

11. The Allegation made against Dr Mahdavi is as follows:

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

1. On 22 August 2022 you were suspended from the National Medical Performers List (‘NMPL’) with immediate effect.
To be determined
2. On one or more of the dates set out on Schedule 1 you worked via Key Medical Services’ (KMS) as a locum general practitioner (‘GP’) whilst suspended from the NMPL.
To be determined
3. When you carried out the actions as described in paragraph 2 you knew that you:
 - a. had been suspended as described at paragraph 1;
To be determined

b. should not have been working as a GP through KMS as you were not on the NMPL;

To be determined

c. were required to notify KMS of your suspension from the NMPL and you had not done so.

To be determined

4. Your actions at paragraph 2 were dishonest by reason of paragraph 3.

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

Factual Witness Evidence

12. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were called to give oral evidence:

- Dr B, Chief Medical Officer at Key Medical Services, witness statement dated 5 July 2023. Supplemental statement dated 12 March 2024;
- Mr A, Senior Professional Standards Manager for NHS England, witness statement dated 18 July 2023.

13. Dr Mahdavi provided her own witness statement on 5 July 2024 and gave oral evidence.

Documentary Evidence

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

- Notice of Immediate Suspension letter from NMPL, dated 23 August 2022;
- Review of Immediate Suspension letter from NMPL, dated 23 August 2022;
- NHSE Correspondence with Dr Mahdavi about oral hearing, dated November 2022;
- Correspondence between KMS and Dr Mahdavi, various dates;
- Medical PLDP hearing cover sheet for an oral hearing scheduled for 12 January 2023;

- Medical PLDP hearing cover sheet for an oral hearing scheduled for 17 January 2024; and
- Review of Immediate Suspension letter from NMPL, dated 24 August 2022.

The Tribunal's Approach

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

16. In respect of the allegations that Dr Mahdavi acted dishonestly, the Tribunal applied the test laid down by the Supreme Court in *Ivey v Genting Casinos (UK) Ltd* [2017] UKSC 67 (*'Ivey v Genting Casinos'*), namely that the Tribunal should first ascertain subjectively the actual state of Dr Mahdavi's knowledge or belief as to the facts. Whether the belief is reasonable may be a matter of evidence, but reasonableness is not an additional requirement when considering whether the belief was genuinely held. The Tribunal should then ascertain whether her conduct was dishonest applying the objective standards of ordinary decent people.

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1

18. The Tribunal was required to determine whether, on 22 August 2022, Dr Mahdavi was suspended from the National Medical Performers List ('NMPL') with immediate effect.

19. The Tribunal had regard to the letters issued by NHS England (NHSE) in respect of Dr Mahdavi's suspension from the NMPL. Both letters were dated 23 August 2022.

20. The first letter regarding Dr Mahdavi's immediate suspension from the NMPL confirmed:

'The Performers List Decision Panel (PLDP) for London was convened on 22nd August 2022 to consider concerns relating to your ongoing case with NHS England specifically

the period of time you have been out of general practice and [XXX]. They directed the suspension of your entry on the National Medical Performers List (“the List”) with immediate effect...’

21. The second letter regarding the review of Dr Mahdavi’s immediate suspension from the NMPL confirmed:

‘I write to you further to my letter on 23rd August 2022 in which I informed you that you had been suspended from the NHSE Medical Performers List (“the List”) with immediate effect...’

This decision was made by the Performers List Decision Panel (PLDP) on 23rd August 2022. As you were made aware, this suspension was an immediate suspension and as such you are not permitted to work as a GP in the NHS anywhere in England while the suspension is in place.

As a provision of the above Regulation, NHS England is required to review this decision within 2 days of the suspension being implemented.

I can now inform you that the decision was reviewed on 23rd August 2022. The panel members were asked to review the decision made by the PLDP convened on 22nd August 2022. They have assessed the information considered by the PLDP...

In light of the above reasoning, the Panel agreed that your suspension should continue. I appreciate that you will be disappointed by this decision, but I would like to make clear to you that suspension is a neutral act, and its implementation in this way should be seen as protecting both you and your patients. You do of course have the right to challenge this decision both in writing and / or orally at a hearing under Regulation 12 (7) (c) of the NHS (Performers Lists) (England) Regulation 2013 and would encourage you to consider the next section in detail with your legal representatives.’

22. The Tribunal had regard to Mr A’s evidence that the appropriate processes regarding Dr Mahdavi’s suspension from the NMPL had been properly followed. The Tribunal noted his email to Dr Mahdavi, which she accepted she received, enclosed the two NHSE letters and confirmed a telephone call that took place between them on 22 August 2022 during which Dr Mahdavi was informed she had been suspended from the NMPL with immediate effect.

23. At various points during the hearing, Dr Mahdavi appeared to accept that she was suspended on 22 August 2022, but she disputed the length of the suspension. This is consistent with an email she sent to Key Medical Services' (KMS) dated 15 December 2022, when she wrote *'I was suspended legally for 24 hrs only and the required matter got resolved with in 24 hrs'*. In her witness statement she confirms that she was initially notified by Mr A of her suspension by telephone on 22 August 2022 and in an email sent on 24 August 2022 to Mr A and Dr C, Dr Mahdavi said, *'today is day two for review this decidion re suspension on 22nd Aug 2022. Concerns all are met so the suspension should be removed with emidiate affect'* [sic].

24. In an email of the 24 August 2022, which she titled *'New Suspension'*, Dr Mahdavi wrote to Dr D the author of the NHSE letters, *'Thank you for sending and endorsing the suspension letters, that [Mr A] kindly made ready for you... Concerns are all met so the suspension should be removed with emidiate affect'* [sic].

25. However, although Dr Mahdavi stated that for a period of eight weeks she believed she had been suspended she set out in her witness statement that she, *"was convinced that the Suspension was a hoax"*.

26. Dr Mahdavi stated that Mr A was not a truthful witness, that he along with Dr C had sought to destroy her reputation, that Mr A was lying about her *'all the time'* and that his behaviour in referring her for XXX, *"...is the most strange and dishonest and systematic gaslighting"*. Dr Mahdavi submitted that Mr A had been evasive in his answers to questioning and therefore could not be trusted as a witness.

27. Dr Mahdavi also raised a number of criticisms about the evidence provided by Mr A to the Tribunal. She questioned the validity of the NHSE letters. She submitted that the NHSE letters were not explicit about her suspension, the letters used the same reference number as correspondence relating to a case she had in 2019, both were dated 23 August 2024 but there was a second version of the review letter dated 24 August 2024. She argued that there was no letter directly from the PLDP, she had not been told the names of the individuals on the Panel nor had she been given any minutes of the meeting. She submitted the genuineness of the NHSE letters and Mr A's evidence that she was suspended was called into question.

28. Having heard Mr A give evidence, the Tribunal was satisfied he was a credible and truthful witness. It noted that he was willing at times to make appropriate concessions, for example accepting when matters were outside of his knowledge. The Tribunal noted that the contemporaneous email correspondence supported Mr A's account rather than Dr Mahdavi's, for example requests for Dr Mahdavi to consent to disclosure of XXX. Dr Mahdavi submitted Mr A had lied about not receiving XXX on 23 August 2022. XXX

29. Dr Mahdavi then complained about XXX to Mr A in an email dated 1 November 2022, which included a copy of XXX. Also attached was an email from Dr Mahdavi dated 20 October 2022 to a colleague XXX. The Tribunal considered the emails supported Mr A's evidence that XXX had not been provided to him, undermining Dr Mahdavi's insistence the Mr A was lying about not receiving XXX on 23 August 2022.

30. The Tribunal was satisfied that Mr A's account, unlike Dr Mahdavi's, has been a consistent one throughout. Further, the Tribunal did not agree with Dr Mahdavi's portrayal of Mr A as an untruthful witness who refused to directly answer questions.

31. The Tribunal took into account that Mr A was not one of the people on the PLDP making the decision about Dr Mahdavi. He did not personally suspend Dr Mahdavi and took an administrative role in providing Dr Mahdavi with the decision and acted as a point of contact. It is clear from Dr Mahdavi's evidence that other people were aware that she was suspended and communicated with her about it. Throughout his correspondence with Dr Mahdavi, Mr A made constant offers of help and assistance to enable her to resume her work as a GP and reminded her of her entitlement to financial support. The Tribunal considered all these factors seriously undermined Dr Mahdavi's argument that the suspension was a 'hoax' and a 'conspiracy' perpetrated by Mr A and others against her.

32. The Tribunal accepted Mr A's evidence that the letters of 23 August 2022 are genuine and that they confirm that Dr Mahdavi was indeed suspended by the PLDP with immediate effect on the 22 August 2022. The Tribunal therefore determined that it was more likely than not that Dr Mahdavi was suspended from the NMPL on 22 August 2022 with immediate effect.

33. Accordingly, the Tribunal found paragraph 1 of the Allegation proved.

Paragraph 2

34. The Tribunal next considered whether, on one or more dates set out in Schedule 1, Dr Mahdavi worked via KMS as a locum GP whilst suspended from the NMPL.

35. At the outset of the hearing, Dr Mahdavi accepted that she worked on all of the dates set out in Schedule 1. The Tribunal was therefore only required to determine whether Dr Mahdavi was suspended throughout the period she worked via KMS between 21 October and 25 November 2022.

36. The Tribunal had regard to the correspondence from NHSE which it accepted was genuine. The first letter from NHSE, dated 23 August 2022 stated:

‘Suspension from the NHS Performers List is deemed a neutral act whilst NHS England gathers further information, it is not used as a sanction. It means that you must stop working in any role that requires you to be on the NHS Performers List immediately.’

37. The second letter from NHSE, dated 23 August 2022 stated:

‘NHS England will make arrangements for the hearing to be convened at a time and date convenient to you. Please note, you will remain suspended until this matter is considered by the Oral Hearing (assuming you request such a hearing).’

38. The Tribunal accepted the evidence of Mr A, whom it considered to be a credible witness that the suspension lasted for a full six months. It noted that he was candid in his evidence that the suspension lapsed after six months without a hearing, due to incorrect advice that NHSE had received about the correct approach to extending the suspension. The Tribunal also accepted his evidence that the reason a hearing had not taken place was due to Dr Mahdavi’s Subject Access Request, difficulties putting a panel together around Christmas and the decision in January 2023 to again refer Dr Mahdavi XXX, his evidence was consistent with the contemporaneous emails explaining the delay for the oral hearing to Dr Mahdavi.

39. The Tribunal considered that the documentary evidence before it was clear. Dr Mahdavi was suspended from the NMPL on 22 August 2022, this was communicated to her by a telephone call that same day. The following day, Dr Mahdavi received a letter confirming the immediate suspension and then a further letter following the review of the suspension by a second panel in line with the regulations. Both letters confirmed that Dr Mahdavi was

suspended, could not work in any role that required her to be on the NMPL and confirmed that to challenge the suspension Dr Mahdavi would need to request an oral hearing. If such a hearing was requested, it was clear from the correspondence that the suspension would remain in place until that hearing took place and was concluded in her favour.

40. Dr Mahdavi did seek an oral hearing. The Tribunal had sight of a number of emails between Dr Mahdavi and Mr A relating to the Oral Hearing Panel, which ultimately did not end up taking place. The Tribunal noted that nowhere in those emails was it suggested or raised that the suspension had come to an end before Dr Mahdavi started working.

41. Dr Mahdavi gave evidence that KMS had confirmed to her during a compliance check that she was not suspended. Dr Mahdavi, however, gave two differing accounts of what happened to the Tribunal. In her witness statement she states that she, *'specifically asked about my inclusion and the celcus Group , part of Key Medical confirmed it is live'* [sic] and *'when key Medical consultant called me for head hunting or gathering reward £500, for a new referee, I used the opportunity and asked the agency check my documents and my NPL inclusion'*. However, in her oral evidence her discussions with KMS were less explicit about the issue of the NMPL. Dr Mahdavi informed the Tribunal that she asked the KMS agent what compliance matters were outstanding and, in an email sent to her, which the Tribunal has not seen, there was no mention of any NMPL issue. Dr Mahdavi said she understood this to mean she was not in fact suspended. Further, she explained, when conducting her identification validation, there was again no mention of any NMPL issue.

42. Dr Mahdavi also stated in her witness statement that, *'Practice managers did check'* and *'My smart card was active and the practices were insomuch with PCSe online fir electronic prescribing'* [sic]. In her oral evidence Dr Mahdavi explained that she saw the record check that was done by KMS dated *'6/10/22'* which did not show her as suspended and it was in the possession of the practice manager at the first GP surgery. She explained this supported her view that she was not suspended in October 2022 as claimed by Mr A.

43. The Tribunal received no evidence on whether or not any smart card issued to Dr Mahdavi would or would not work, in circumstances where she was suspended from the NMPL. It considered little weight could be attached to the oral evidence of Dr Mahdavi that the card working, proved that she was not suspended.

44. The Tribunal noted that even if Dr Mahdavi was correct that KMS had told her that she was not suspended from the NMPL, that did not mean the information was correct. The

Tribunal considered the evidence of Dr B, who confirmed that there had been no check of Dr Mahdavi's performance list record in October 2022 by KMS. Instead, an older check had mistakenly been relied upon which was in the American date format giving false reassurance. Dr B's evidence about this mistake has been consistent throughout, in a report she prepared on 7 January 2023 she noted:

'Pre-assignment checks for the Valley View placement revealed a performer's list check which appears to show inclusion on the NPL on 6th October, but later review revealed that the date was in USA format and had actually been checked on 10th June 2022.'

45. Dr B set out in her 7 January 2023 report that following a complaint received on 22 November 2022 from Valley View Health Centre an additional compliance check was carried out in respect of Dr Mahdavi. This check led to the discovery that *'Dr Maldavi [sic] was suspended from the GP National Performer's list at the time of the assignment'*. The Tribunal considered whether there could have been errors in the online records, it noted Dr Mahdavi's evidence, which Mr A accepted, that there had been a previous error with PCSE online in 2021 to 2022, showing Dr Mahdavi as suspended when she no longer was. However, the Tribunal considered it inherently implausible that there would have been any change in the online records between October and November. The Tribunal considered Dr B to be a credible witness, and that it was more likely than not that there was no check by KMS in October 2022. The check after 22 November 2022 confirmed Dr Mahdavi's suspension from the NMPL.

46. The Tribunal was of the view that Dr B evidence and the check undertaken in November 2022 supported Mr A's evidence and that of the NHSE letters that Dr Mahdavi was suspended. Taking into account all of the evidence, the Tribunal concluded that it was more likely than not that Dr Mahdavi's suspension did not lapse until February 2023, and was therefore still in place when she worked in October and November 2022. Accordingly, it determined that Dr Mahdavi did work whilst suspended from the NMPL.

47. The Tribunal therefore found paragraph 2 of the Allegation proved.

Paragraph 3.a

48. The Tribunal went on to consider whether when Dr Mahdavi worked between 21 October 2022 and 25 November 2022, she knew she had been suspended from the NMPL on 22 August 2022 and remained suspended.

49. Dr Mahdavi informed the Tribunal she believed that she was not suspended when she worked in October and November 2022. Her belief, as set out above, was based primarily on information she says was given to her by KMS. That conversation, Dr Mahdavi states, took place on 6 October 2022, reinforcing her belief that the suspension was a ‘hoax’ perpetrated by Mr A.

50. In considering whether Dr Mahdavi knew she was suspended when she worked, the Tribunal noted the correspondence provided to her by email on the 23 August 2022 that confirmed that the suspension would be ongoing until any requested oral hearing took place. No oral hearing took place. The Tribunal had regard to the contemporaneous correspondence. It noted that in an email sent on 11 October 2022, after Dr Mahdavi says that she had been told by KMS that she was not suspended from the NMPL she emailed Mr A saying:

“Just a quick reminder about the supporting documents for suspension bundle and the SRA documents”

51. When asked about the email in cross examination, Dr Mahdavi was unable to provide any clear explanation for the enquiry about a bundle for the suspension hearing, when on her evidence she believed she was not in fact suspended. At no point did she seek to clarify her position with Mr A nor anybody else at NHSE. In her witness statement, Dr Mahdavi explains:

‘The reason that I did not say was that they were not thrust worthy and helpfully. Last time that I told them I have started work, they were upset and this time I just wired fir them to do what they wanted to do’ [sic].

52. In an email the same day, Mr A responded to Dr Mahdavi, informing her that once a date for the hearing was set a panel would be appointed and the case pack for the hearing would be provided. Again, Dr Mahdavi did not query the need for a hearing. A follow up email was sent by Mr A on 20 October 2022 in which he proposed possible dates for the oral hearing. He also reminded Dr Mahdavi that he would assist her if she needed any assistance

with the suspension pay claim form. Dr Mahdavi again did not question the need for a hearing nor the reference to suspension pay. The Tribunal noted that this email was the day before Dr Mahdavi undertook her first day of work via KMS.

53. On 8 November 2022, following a telephone call from Dr Mahdavi, Mr A sent her an email again raising the issue of the case pack for the hearing and the hope of confirming a date for the oral hearing. On 11 November 2022 a suggested hearing date was put forward to Dr Mahdavi by Mr A. Further emails followed from Mr A on 21 and 23 November 2022 explaining difficulties with fixing a hearing date. At no point did Dr Mahdavi seek clarification as to whether or not she remained suspended nor why a hearing was needed as she believed that she was not suspended from the NMPL.

54. Following the complaint to KMS, Dr Mahdavi was asked to clarify her position with regard to whether she was suspended from the NMPL. On 29 November 2022, KMS sent Dr Mahdavi an email which stated:

'I hope all is well with you, it's has been brought to my attention that apparently you have been removed from the National Performers List. If this is the case I would have expected you to inform us of this, as I'm sure you are aware that it is an essential part of our compliance for us to be able to offer you work.'

55. On 5 December 2022, in her reply, Dr Mahdavi stated:

'That is true.

The performance list was supposed to be updated on 23rd August, I was actually been suspended for one day.

I am waiting for next panel to remove it.

[XXX]' [sic]

56. In an email dated 7 December 2022 she explained that:

'On 22nd Aug they suspended me, because

They thought I am not cooperating [XXX]

However the panel did not know that [XXX]

I was working and the panel wanted [XXX]

[XXX]

Still working.

On 6 o'clock 22nd Aug 2022 i had a phone call that i am suspended subject to [XXX]

The guy did not know that [XXX]

I told him about [XXX]

He did not believe it would happen tomorrow.

He said we review the suspending order in 48 hours.

If [XXX] we remove it.

I agreed.

On 23rd i took part in [XXX].

[XXX]

I informed the panel that all good and send them [XXX].

Done.

The suspension removal. Done.' [sic]

57. Dr Mahdavi then proceeded to say that she had been told by her union that it was for the 'compliance agency' to detect that she was still listed as suspended and to help rectify it. In a further email dated 15 December 2022 Dr Mahdavi explained that:

'I was suspended legally for 24 hrs only and the required matter got resolved with in 24 hrs. It should ve been removed there and then , but was kept on register. For updating my documents u did not ask about performer list so it must have been show as registered. I am dealing with this matter with NHSE. The whole process there is abused and will be dealt with Health Ambudsman.' [sic]

58. The Tribunal was mindful that in her emails Dr Mahdavi does not state that she believed she was not suspended from the NMPL because that is what KMS had informed her. As set out above, her account of what she says she was told by KMS is inconsistent, with Dr Mahdavi having told the Tribunal differing accounts of what was discussed with KMS.

59. Having considered Dr Mahdavi's evidence, the Tribunal concluded that she was not a credible witness. Her account of what she knew and believed is inconsistent and has changed over time. There are discrepancies between her account to the Tribunal and what she wrote at the time. The Tribunal was of the view that the contemporaneous emails better reflect Dr Mahdavi's knowledge at the time about her position on the NMPL, rather than her evidence to the Tribunal. The Tribunal determined that as Dr Mahdavi was in communication with NHSE about scheduling her oral hearing to appeal the suspension, Dr Mahdavi must have known that she remained suspended.

60. The Tribunal therefore concluded that, based on the evidence before it, it was more likely than not that Dr Mahdavi knew that she was suspended from the NMPL, when she undertook shifts between October and November 2022 for KMS.

61. Accordingly, the Tribunal found paragraph 3.a of the Allegation proved.

Paragraph 3.b

62. The Tribunal was required to determine whether Dr Mahdavi knew that she should not have been working as a GP through KMS as she was not on the NMPL.

63. The Tribunal noted Dr Mahdavi's evidence that she knew that if a doctor was suspended from the NMPL they could not work as a GP.

64. Mr A in his evidence confirmed that, *'The suspension meant that she was not permitted to work as a GP in the NHS anywhere in England'*. In the Review of Immediate Suspension letter dated 23 August 2022 received by Dr Mahdavi she was informed that:

'As you were made aware, this suspension was an immediate suspension and as such you are not permitted to work as a GP in the NHS anywhere in England while the suspension is in place'

65. The Tribunal therefore determined that it was more likely than not that Dr Mahdavi, knew that she should not have been working as a GP through KMS as she had been suspended from the NMPL.

66. Accordingly, the Tribunal found paragraph 3.b of the Allegation proved.

Paragraph 3.c

67. The Tribunal proceeded to determine whether Dr Mahdavi knew that she was required to notify KMS of her suspension from the NMPL and that she had not done so.

68. The Tribunal acknowledged Dr B's evidence that the requirement to notify KMS of any change in status regarding being included on the NMPL was clear.

69. The Tribunal took into account that each of the assignment emails Dr Mahdavi accepted for the three surgeries she worked at between October and November 2022 were headed with *'To confirm acceptance, please reply to this email. In doing so you accept Key Medical Service's terms of business and confirm that you have read and agree with the policies set out by the Key Medical Services handbook'*.

70. The relevant KMS terms and conditions set out that:

'T&C's section 2.3.3 (limited & Sole Trader)

comply with all legislation and statutory requirements applicable to the Services and provide the Services in accordance with accepted medical practice in the United Kingdom, including the General Medical Council's Good Medical Practice, Ethical Guidance and codes of conduct;'

'T&C section 2.4.2

at all times hold valid medical qualification, valid registration with the General Medical Council (GMC), membership of the GMC GP register, enhanced criminal records bureau certificate issued within the last 12 month, confirmation of inclusion on the relevant Primary Care Trust Medical Performance List, confirmation of Care Quality Commission (or similar regulator in the United Kingdom outside England, if relevant) and GMC required immunisations and confirmation that the Contractor has undergone the relevant annual appraisal within an NHS approved appraisal systems. The Contractor must notify KMS LTD immediately if a General Practitioner ceases to hold any of the foregoing qualifications, documentation, registrations or memberships;'

71. The Tribunal considered that it would have been clear to Dr Mahdavi in accepting the work with KMS that she was required to notify them of her suspension from the NMPL. In accepting each assignment, Dr Mahdavi agreed to the relevant terms and conditions, which included needing to notify KMS of her situation with the NMPL. The Tribunal found that at the time of accepting each assignment, Dr Mahdavi had known she was suspended from the NMPL and therefore should have informed KMS of her suspension, but did not do so.

72. Accordingly, the Tribunal found paragraph 3.c of the Allegation proved.

Paragraph 4

73. The Tribunal was required to determine whether Dr Mahdavi's actions in working whilst knowing she was suspended from the NMPL was dishonest.

74. The Tribunal has already ascertained Dr Mahdavi's subjective state of knowledge and belief at the time she worked. It rejected her account that she did not believe she was suspended when she undertook GP shifts through KMS. It was satisfied that it was more likely than not that she knew she was suspended from the NMPL when she worked.

75. The Tribunal then proceeded to apply the second element of the test in *Ivey v Genting Casinos*. The Tribunal determined that, objectively, ordinary decent people would conclude that Dr Mahdavi had acted dishonestly when she failed to notify KMS of her suspension and undertook GP shifts knowing that she was suspended from the NMPL and could not work as a GP.

76. Accordingly, the Tribunal found paragraph 4 of the Allegation proved.

The Tribunal's Overall Determination on the Facts

77. The Tribunal has determined the facts as follows:

1. On 22 August 2022 you were suspended from the National Medical Performers List ('NMPL') with immediate effect.
Determined and found proved
2. On one or more of the dates set out on Schedule 1 you worked via Key Medical Services' (KMS) as a locum general practitioner ('GP') whilst suspended from the NMPL.
Determined and found proved
3. When you carried out the actions as described in paragraph 2 you knew that you:
 - a. had been suspended as described at paragraph 1;
Determined and found proved
 - b. should not have been working as a GP through KMS as you were not on the NMPL;
Determined and found proved

- c. were required to notify KMS of your suspension from the NMPL and you had not done so.

Determined and found proved

4. Your actions at paragraph 2 were dishonest by reason of paragraph 3.

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 - 18/12/2024

78. 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 Mahdavi's fitness to practise is impaired by reason of misconduct.

The Outcome of Applications Made during the Impairment Stage

79. The Tribunal granted Dr Mahdavi's application, made pursuant to Rule 16 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to vary the Tribunal's previous direction in respect of the time given for service of documentation, to allow her to submit further evidence at the outset of the hearing.

80. The Tribunal refused an application by Dr Mahdavi to adduce further evidence after the deadline for service had passed. Its reasoning is set out at Annex G.

The Evidence

81. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further documentary evidence. The Tribunal received from the GMC two witness statements from Dr F, Dr Mahdavi's former Responsible Officer. It also received a number of testimonials on behalf of Dr Mahdavi and a document setting out Dr Mahdavi's reflections on her recent IOT hearing, all of which it has read.

82. Dr Mahdavi provided her own witness statement on the second day of the resumed hearing and gave oral evidence.

83. In her evidence to the Tribunal, Dr Mahdavi outlined her position on the events that led to this hearing. She told the Tribunal that she accepted that the Tribunal had made its decision but did not accept that she had been dishonest. She explained that dishonesty was a ‘relative’ concept and could be interpreted differently particularly in different cultural contexts. She went on to apologise for her actions and stated that she had been severely impacted by this, in particular as she has now not been working for two years, by choice. She also told the Tribunal that she did believe she had been unfairly targeted by the Senior Professional Standards Manager for NHS England in the London Region because they probably believed she was not a good doctor. In addition to her previous statements, she reiterated that at the time she did not know that she had been suspended and she should not have relied on others.

Submissions

84. On behalf of the GMC, Mr Ciaran Rankin submitted that having worked on 17 occasions whilst suspended, Dr Mahdavi’s conduct amounted to persistent dishonesty, albeit over a relatively short period of time. He submitted that Dr Mahdavi had brought the profession into disrepute, had breached fundamental tenets of the profession and she had acted without integrity. Mr Rankin submitted that the Tribunal should conclude that the Tribunal’s factual findings amount to misconduct.

85. Mr Rankin submitted that this was a case which requires a finding of impairment as a firm declaration of the standards required in order to promote public confidence in the medical profession and to uphold proper standards of conduct for members of the profession. He submitted that the witness statement and evidence provided by Dr Mahdavi indicates that she has not truly reflected on her misconduct, noting that she still uses the words ‘vendetta’ and ‘false narrative’ in describing the events that took place. He referred the Tribunal to Dr Mahdavi’s statement within her oral evidence that she does not accept that she had been dishonest and submitted that this indicates that she does not accept the Tribunal’s decision in relation to dishonesty.

86. Dr Mahdavi submitted that she did not know at the time that she had been suspended, and stated that if she had known then this would have been ‘significant misconduct’ in respect of which it would be appropriate to impose a sanction. She told the Tribunal that she did not agree with its decision at the facts stage that she had been dishonest, stating that proof on the balance of probabilities did not represent 100% proof. She went on to submit that she had been unfairly ‘pursued’ by the Senior Professional

Standards Manager for NHS England in the London Region in referring her to the GMC and other professional bodies.

87. Dr Mahdavi submitted that her fitness to practise was not impaired and submitted that the Tribunal should give her ‘the benefit of the doubt’ in determining whether her actions had amounted to misconduct.

The Relevant Legal Principles

88. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal’s judgement alone.

89. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct and that the misconduct was serious and then whether the finding of that misconduct which was serious could lead to a finding of impairment.

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

91. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as approved by the High Court in *CHRE v NMC* and *Paula Grant* [2011] EWHC 297 Admin, with regard to the features which are likely to be present when impairment is found. The features are as follows:

- 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 or is liable in the future to bring the medical profession into disrepute; and/or
- c. Has in the past breached or is liable to breach in the future one of the fundamental tenets of the medical profession; and/or
- d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.

The Tribunal's Determination on Impairment

Misconduct

92. The Tribunal considered the details of the Allegations found proved, and all the written and oral evidence it had received. It considered the submissions made by both parties and the LQC advice.

93. The Tribunal had regard to the edition of Good Medical Practice published in 2013, which was in force during the relevant period. It noted paragraphs:

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

66 You must always be honest about your experience, qualifications and current role.

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.

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

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

b You must not deliberately leave out relevant information.

76 If you are suspended by an organisation from a medical post, or have restrictions placed on your practice, you must, without delay, inform any other organisations you carry out medical work for and any patients you see independently.

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

Suspension

94. The Tribunal found proved that on 22 August 2022 Dr Mahdavi had been suspended from the National Medical Performers List ('NMPL') with immediate effect. It was satisfied that being suspended from the NMPL did not of itself amount to misconduct.

Dishonestly working whilst suspended

95. The Tribunal bore in mind its finding that Dr Mahdavi worked whilst knowing that she was suspended from the NMPL. That suspension had been put in place due to concerns about Dr Mahdavi having been deskilled and the potential risk to patient safety. Despite being aware of the suspension and the reasons for it, Dr Mahdavi chose to work on 17 separate occasions, at three different GP surgeries. The Tribunal considered that in doing so Dr Mahdavi had not taken the required steps to ensure that the information she had provided to employers was accurate, in line with paragraphs 65, 68 and 71 of GMP. It considered that Dr Mahdavi was also in clear breach of paragraph 76 and paragraph 77 in that she had knowingly undertaken paid work whilst suspended.

96. Dr Mahdavi put her own interests before those of her patients, in choosing to ignore a suspension that she disagreed with, potentially putting them at risk of harm. The Tribunal considered that Dr Mahdavi's actions undermined patients' trust in her and the public's trust in the profession, and were in breach of paragraph 65 of GMP, above.

97. The Tribunal was therefore satisfied that the remainder of the facts found proved constituted misconduct and that the misconduct was serious.

98. The Tribunal concluded that Dr Mahdavi's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

Impairment

99. The Tribunal, having found that the proven facts amounted to misconduct, went on to consider whether, as a result of that Dr Mahdavi's fitness to practise is currently impaired. It considered whether the doctor's conduct is easily remediable, whether it has been remedied, and whether the conduct is likely to be repeated.

100. The Tribunal considered that whilst Dr Mahdavi's misconduct was potentially remediable, as this is a case of repeated dishonesty it would be difficult to remediate, especially without the development of significant insight.

101. The Tribunal went on to consider whether there was any evidence before it of insight or remediation on the part of Dr Mahdavi.

102. The Tribunal had regard to Dr Mahdavi's written statement and her oral evidence to the Tribunal. It noted that whilst Dr Mahdavi stated in her evidence that she accepted the Tribunal had found her to be dishonest, she did not agree that she had been dishonest. Whilst the Tribunal accepts Dr Mahdavi is entitled to disagree with the facts found proved against her, it was concerned by Dr Mahdavi's continued assertions that she had been the target of malicious referrals to the GMC and other professional bodies and 'gaslighting' by the Senior Professional Standards Manager for NHS England in the London Region, who she described as having a 'vendetta' against her. The Tribunal considered this indicated both a lack of reflection and a lack of development of any insight into the Tribunal's findings.

103. The Tribunal noted that Dr Mahdavi expressed regret and said that she had learned from her experience, however, it noted that her evidence to this effect was focused largely on the impact on her of the regulatory proceedings. Dr Mahdavi did however accept that the patients she had treated would be concerned that they had been treated by a Doctor who was suspended.

104. The Tribunal considered that Dr Mahdavi has shown limited evidence of the development of her insight in the time since the events took place. Dr Mahdavi does not appear to have taken responsibility for her actions, reflected on their underlying causes or expressed genuine remorse or understanding of the impact of her dishonesty. Indeed, she continues to blame others for the situation she finds herself in.

105. The Tribunal has had regard to the testimonials provided on behalf of Dr Mahdavi. The Tribunal has noted that the testimonials all speak positively of Dr Mahdavi and that the authors are of the same view as Dr Mahdavi, that she has been badly treated in having to go through the regulatory process. The Tribunal took into account that they are all personal testimonials rather than professional colleagues and that they cannot speak to the probity issues in this case. It is also unclear if any of the authors have read the Tribunal's determination on facts. Accordingly, the Tribunal determined it could attach very little weight to the testimonials.

106. The Tribunal considered Dr Mahdavi's reflection on her IOT hearing was of no assistance to it. It has been provided with no evidence of any remediation that Dr Mahdavi has undertaken. It considered that whilst dishonesty is not easily remediable, there has been no evidence of remediation provided by her to date. The Tribunal has been presented with no documentary evidence of relevant CPD and Dr Mahdavi accepted that she has not undertaken any courses relating to probity or ethics since her misconduct. She has undertaken an unconscious bias course and stated she had read Good medical practice (2024).

107. The Tribunal considered that given the absence of any insight or remediation, there is a real risk of repetition in this case. Whilst Dr Mahdavi stated that she had chosen not to undertake any work for two years and this was evidence that she would not work whilst suspended again, the Tribunal was not persuaded by this. The Tribunal was firmly of the view that should similar circumstances arise in future, especially where Dr Mahdavi felt she was being treated unfairly, there was a real risk that she would choose to ignore any restrictions put in place.

108. The Tribunal then went on to consider the test for impairment set out in *Grant* above.

109. The Tribunal was satisfied that Dr Mahdavi has acted with disregard for a suspension imposed by the Medical Performers List Panel which was put in place to protect patients from a doctor who may have been deskilled. The Tribunal was of the view that Dr Mahdavi had, in choosing to knowingly disregard that suspension, put patients at unwarranted risk of harm and may act in a similar way in the future. It was therefore satisfied that a finding of current impairment was necessary to protect the public from potential harm.

110. The Tribunal concluded that Dr Mahdavi's repeated dishonest conduct, which occurred within the course of her work as a doctor, was clearly capable of bringing the profession into disrepute. The Tribunal considered that this was a case of serious dishonesty and therefore concluded that the second limb of *Grant* was also engaged.

111. The Tribunal also concluded that Dr Mahdavi's actions clearly breached fundamental tenets of the profession, as set out in its consideration of misconduct above, and has found that her actions were dishonest. Considering the paucity of insight or remediation and the identified risk of repetition, the Tribunal was of the opinion that Dr Mahdavi may act dishonestly again in the future. Accordingly, it found that the third and fourth limbs of *Grant* were also engaged.

112. Further, the Tribunal determined that members of the public knowing all of the circumstances would be shocked if a finding of impairment was not made. Honesty and integrity are key to public confidence in the medical profession and the Tribunal determined that a finding of current impairment was also necessary in order to maintain public confidence in the profession and to uphold proper standards of conduct and behaviour in the profession.

113. The Tribunal was not persuaded by Dr Mahdavi's argument that the public interest would be better served by finding her fit to practise due to the shortage of General Practitioners in the UK. The Tribunal noted that Dr Mahdavi accepted herself during her evidence that patients treated by a doctor who was suspended would rightly feel aggrieved. The Tribunal was satisfied that a finding of impairment was necessary to uphold all three limbs of the Overarching Objective.

114. The Tribunal has therefore determined that Dr Mahdavi's fitness to practise is currently impaired by reason of misconduct.

Determination on Sanction - 19/12/2024

115. Having determined that Dr Mahdavi'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

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

Submissions

117. On behalf of the GMC, Mr Rankin reminded the Tribunal that it must start with the least restrictive sanction working upwards until it finds a sanction that is satisfactory to this case. Therefore, he submitted that the most realistic and appropriate option would be nothing below suspension or erasure.

118. Mr Rankin referred the Tribunal to the relevant paragraphs in the Sanctions Guidance (2024) on dishonesty and the circumstances where a suspension or erasure may be appropriate.

119. In relation to suspension, he submitted suspension may be appropriate where there is an acknowledgement of fault, the behaviour is unlikely to be repeated, there is evidence that the doctor has taken steps to mitigate their actions and if the doctor has insight. He submitted that regrettably, Dr Mahdavi's behaviour does not fall within these categories. He submitted that there has been no meaningful acknowledgment of fault from Dr Mahdavi, and she is still blaming others. He submitted that Dr Mahdavi's lack of insight was a significant aggravating feature and there remained a real risk of repetition.

120. Turning to erasure, Mr Rankin submitted that this is the appropriate and proportionate sanction in this case. He submitted that erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. He also referred the Tribunal to the following relevant factors in this case. He submitted that there has been a reckless disregard and a serious departure from the principles set out in Good medical practice. Dr Mahdavi did not like the outcome of the suspension imposed by the Medical Performers List Panel and so she simply chose to deliberately disregard it. There has been dishonesty which was persistent and covered up. There was a persistent lack of insight into the seriousness of her actions or consequences. He submitted that Dr Mahdavi does not accept that she's done anything wrong and has not accepted the tribunal's determination.

121. Dr Mahdavi submitted that she has always understood the seriousness of these proceedings, but perhaps had not always expressed her insight, reflections and remediation clearly, this was due to her personal circumstances, not having legal representative, being "bombarded" with many bundles, referrals and sanctions from NHSE, IOT hearings alongside XXX. As such she submitted that she had not always expressed her true beliefs and understandings about this misconduct.

122. Dr Mahdavi submitted she did have full insight into her failings. That she is an honest person who blames herself for not checking her NPL inclusion. She apologised for this misconduct, but submitted she had never been dishonest.

123. Dr Mahdavi informed the Tribunal that she accepted that her actions in working whilst suspended amounted to serious misconduct, but were not dishonest. She submitted there had been mistakes and misunderstanding with others, which had caused her to undertake work while suspended.

124. Dr Mahdavi informed the Tribunal that until last night she had not fully understood the Tribunal process. She had however been reflecting in her mind throughout the process. Dr Mahdavi informed the Tribunal she had sought assistance with the cost of attending a course on communication skills, but this had not been forthcoming. She had read Good medical practice and sought to keep herself up to date. She recognised ethics was important for doctors and her personal experiences with doctors XXX in Iran had led her to the decision to deliver an ethics course to the Iranian medical society in London.

125. Even though she has not been working, Dr Mahdavi explained to the Tribunal she still provided advice to people. She would tell them about her ongoing Fitness to Practise hearing and that helped to foster their trust with the medical profession, by having a doctor being open about their difficulties. Dr Mahdavi informed the Tribunal that she ‘healed people’.

126. Dr Mahdavi submitted erasure was not the appropriate sanction. She requested support with any sanction to allow her to be able to return to work.

The Tribunal’s Determination on Sanction

127. The Tribunal’s decision as to the appropriate sanction to impose on Dr Mahdavi’s registration, if any, was a matter for the Tribunal exercising its independent judgment. In reaching its decision, the Tribunal has taken account of the Sanctions Guidance and the overarching objective.

128. The Tribunal had regard to the principle of proportionality, and it weighed Dr Mahdavi’s interests with those of the public. Throughout its deliberations the Tribunal bore in mind that the purpose of a sanction is not to punish doctors, although a sanction may have a punitive effect. It also took into account the overarching objective which is to protect the health, safety, and wellbeing of the public, maintain public confidence in the profession, and promote and maintain proper professional standards and conduct for the members of the profession.

129. The Tribunal has also borne in mind that in deciding what sanction, if any, to impose, it should consider all of the sanctions available, starting with the least restrictive and then consider each sanction in ascending order.

Aggravating & Mitigating Factors

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

131. It considered the following features to be aggravating factors:

- Persistent dishonesty over a two-month period.
- The suspension had been put in place on patient safety grounds

132. It considered the following features to be mitigating factors:

- Personal testimonials stating that Dr Mahdavi was a good doctor and was a person of integrity.
- Some expression of regret and apology

133. The Tribunal considered Dr Mahdavi's current level of insight and was of the view that Dr Mahdavi has still demonstrated limited insight into her dishonesty. It noted that during her submissions at this stage of the proceedings she had sought to explain to the Tribunal how she had developed insight. She accepted her behaviour in working whilst suspended amounted to serious misconduct but still denied that she had known she was suspended. She has expressed some regret and apology for her behaviour and explained she understood that she needed to undertake further reflections and remediation, but required time. However, Dr Mahdavi still continues to attribute blame for the situation she finds herself in to others. She had until her submissions, been trying to persuade the Tribunal that she had not in fact been suspended, that there was conspiracy against her due to what she characterised as a vendetta by the Senior Professional Standards Manager for NHS England in the London Region.

134. The Tribunal considered what little insight Dr Mahdavi has can not be considered to be a mitigating factor. The Tribunal considered, as per its impairment determination, that there was insufficient evidence of meaningful insight, reflection and remediation and there remained a substantial risk of Dr Mahdavi repeating her misconduct.

135. The Tribunal also bore in mind that during the course of proceedings, Dr Mahdavi has referenced a number of ongoing personal difficulties she has been facing. These included: Dr Mahdavi is unrepresented in this case and that English is not her first language, both of which she has said has made it difficult at times for her to engage. References have also been made to XXX, albeit the Tribunal have not received any XXX evidence from Dr Mahdavi. It also noted Dr Mahdavi's evidence that before returning to the UK in November 2021 and the decision to

suspend her, XXX. Dr Mahdavi has also talked about the financial constraints of these proceedings and her decision not to work as a result of them.

136. During the course of these proceedings, there have been delays due to Dr Mahdavi being involved in XXX and she has informed the Tribunal that she has XXX. The Tribunal has received no evidence as to whether this was something dating back to the time of the misconduct or not. Further, it has not received any evidence from Dr Mahdavi by way of reflection to explain how any of the above factors may or may not have impacted upon her misconduct.

137. The Tribunal considered in the absence of sufficient evidence and explanation these matters did not constitute mitigating factors in the case. It has however taken account of them, but afforded them little weight.

No action

138. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to take 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.

139. The Tribunal considered that there were no exceptional circumstances in this case which could justify it taking no action. Given the serious findings against Dr Mahdavi, the Tribunal determined that to take no action would be neither appropriate nor proportionate and would fail to uphold the overarching objective.

Conditions

140. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Mahdavi's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable, and measurable.

141. The Tribunal had regard to the various paragraphs of the SG which indicate the cases in which conditions might be appropriate. Given the nature of Dr Mahdavi's misconduct, which involves dishonesty, the Tribunal could not formulate appropriate conditions which would be workable, and it did not consider that conditions would be sufficient to mark the gravity of the misconduct. The Tribunal considered that an order of conditions would not be appropriate or proportionate, nor would it be in the public interest.

Suspension

142. The Tribunal then went on to consider whether imposing a period of suspension on Dr Mahdavi's registration would be appropriate and proportionate. In doing so, the Tribunal had regard in particular to the following paragraphs of the SG, which indicates circumstances in which it may be appropriate to impose a sanction of suspension:

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

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

...

e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.

g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.

143. The Tribunal acknowledged that suspension has a deterrent effect and can be used as a signal to the doctor, the profession, and the public about what is regarded as behaviour unbefitting a registered doctor.

144. The Tribunal considered that Dr Mahdavi's dishonesty was a clear breach of multiple paragraphs of GMP and that her dishonesty was behaviour that is fundamentally incompatible with continued registration. The Tribunal considered that Dr Mahdavi's dishonesty fell at the top end of the spectrum. Although it occurred over a short period of time, it was persistent. She chose to work knowing she had been suspended, as a precaution, due to concerns about her being deskilled. In putting her own interests ahead of those of her patients, her conduct and behaviour seriously undermined the reputation of the profession.

145. As per its findings on impairment, the Tribunal considered that it had insufficient evidence of Dr Mahdavi's insight, remediation and reflection. Dr Mahdavi has sought in her submissions to the Tribunal at his stage to explain that she does have insight and has reflected. She explained she appreciated she needs more time. However, notwithstanding those submissions made by Dr Mahdavi the Tribunal remained of the view there remains a risk of Dr Mahdavi repeating her misconduct.

146. When considering the factors which would indicate suspension may be appropriate at paragraph, the Tribunal was of the view that the factors in paragraph 97(a), (e) and (g) were not present.

147. The Tribunal also bore in mind the following paragraphs of the SG which relate to dishonesty between paragraphs 120-128.

124 Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.

128 Dishonesty, if persistent and/or covered up, is likely to result in erasure

148. For the reasons previously set out in the determination, the Tribunal was satisfied that Dr Mahdavi's conduct engaged each of the above paragraphs.

149. The Tribunal determined that in all the circumstances of this case and given the seriousness of the dishonesty, the absence of evidence of sufficient insight, and the risk of repetition a period of suspension would be insufficient to uphold the overarching objective and the public interest.

Erasure

150. In the circumstances the Tribunal determined that the only appropriate sanction in this case was one of erasure. It noted paragraph 108 and 109 of the SG which states:

108 Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.

109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

a A particularly serious departure from the principles set out in Good medical practice where the behaviour is difficult to remediate.

b A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.

...

h Dishonesty, especially where persistent and/or covered up (see guidance below at paragraphs 120–128).

i Putting their own interests before those of their patients (see Good medical practice introduction on page 7 ‘Patients must be able to trust medical professionals with their lives and health. To justify that trust you must make the care of patients your first concern, and meet the standards expected of you in all four domains.’ and paragraphs 94–97 regarding conflicts of interest)

j Persistent lack of insight into the seriousness of their actions or the consequences

151. The Tribunal considered all of the above paragraphs of SG to be engaged in this case. The Tribunal was satisfied that Dr Mahdavi, through her dishonesty in knowingly working whilst suspended, had failed to maintain the high standards expected within the profession, and had shown a blatant disregard for the safeguards designed to protect patients. Having had regard to its findings and the above guidance the Tribunal found that Dr Mahdavi’s misconduct and level of dishonesty was incompatible with her continued registration.

152. The Tribunal has already determined that it has not been provided with any meaningful evidence of insight, reflection or remediation and that there remains a risk of Dr Mahdavi repeating her misconduct. The Tribunal took into account Dr Mahdavi’s long career, her partial apology, previous historical administrative issues with NHS England and her expressed desire of returning to work but was of the view that these did not mitigate in any way the appropriateness of erasure as the sanction.

153. The Tribunal was therefore satisfied that, given all of the relevant factors in this case and having regard to the SG, erasure was the appropriate, necessary and proportionate sanction. Erasure would send a clear message to Dr Mahdavi, the profession and the public that her misconduct constituted behaviour unbecoming and incompatible with that of continued registration as a doctor.

154. The Tribunal concluded that erasure is necessary in Dr Mahdavi’s case to uphold the second and third limbs of the overarching objective, namely to ‘promote and maintain public confidence in the medical profession’ and ‘promote and maintain proper professional standards and conduct for the members of the profession.’

155. The Tribunal therefore determined that Dr Mahdavi's name be erased from the Medical Register.

Determination on Immediate Order - 19/12/2024

156. Having determined to erase Dr Mahdavi's name from the medical register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Mahdavi's registration should be subject to an immediate order.

Submissions

157. On behalf of the GMC, Mr Rankin reminded the Tribunal of paragraphs 172 and 173 of the SG that are relevant to an immediate order and submitted that it is appropriate for an immediate order of suspension to be imposed in this case. He submitted that immediate action should be taken in order to protect public confidence in the profession. He submitted that Dr Mahdavi has not worked for approximately two years therefore it is not going to impact upon a return to work. He informed the Tribunal that the interim order should be revoked.

158. Dr Mahdavi submitted that she has read the Tribunal's determination on sanction, and she denied that she does not have any insight or remediation. She accepted that she has not practised for over two years and submitted that a period of suspension would be preferable over immediate erasure. She submitted that during an immediate period of suspension, she may lodge an appeal.

The Tribunal's Determination

159. In its deliberations, the Tribunal had regard to the following paragraphs of the SG:

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

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

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.

160. The Tribunal determined that in light of the seriousness of its findings, and the particular circumstances of this case, it would be remiss of a Tribunal to allow unrestricted practice in the 28-day appeal period. Accordingly, it determined that an immediate order of suspension was appropriate and necessary in the public interest. It also determined that this was necessary in order to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of the medical profession.

161. The Tribunal therefore determined to impose an immediate order of suspension.

162. This means that Dr Mahdavi's registration will be suspended from today. The substantive direction, as already announced, will take effect 28 days from the date on which written notification of this decision is deemed to have been served, 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.

163. The interim order is hereby revoked.

164. That concludes this case.

ANNEX A – 09/07/2024

Application to Adjourn

165. This hearing was scheduled to commence at 09:30am on 1 July 2024 via Microsoft Teams. The information provided to the Tribunal ahead of the hearing suggested that Dr Mahdavi would be in attendance.

166. Dr Mahdavi did not join the hearing at the scheduled start time. Once contact was made with her, she indicated that she had not understood that the hearing was going ahead today based on communication she had received from the GMC. She requested additional time to prepare herself. The hearing therefore commenced at 10:41am.

167. After discussion about documentation and prior to the opening of the GMC's case, Dr Mahdavi requested additional time to allow her to prepare her documentation and response to the Allegation brought by the GMC. The Legally Qualified Chair (LQC) confirmed with Dr Mahdavi that she was seeking an adjournment of this hearing.

Submissions

168. Dr Mahdavi stated that she required more time to *'tidy up'* her documents. She confirmed that the documents she wishes to present to the Tribunal are already in her possession. Dr Mahdavi acknowledged that she has not previously been fully engaged with these proceedings due to her personal circumstances. She requested two weeks to prepare her documentation and be ready for the hearing. Dr Mahdavi stated that she required time to allow her to systematically respond to the documentation relied upon by the GMC. She told the Tribunal that she is preparing for this case alone and that her administration for it will be slow. Dr Mahdavi stated that she would do her best to use any time she was granted by the Tribunal to prepare her documentation for the hearing.

169. On behalf of the GMC, Mr Rankin, Counsel, opposed Dr Mahdavi's application to adjourn the hearing for two weeks. He submitted that Dr Mahdavi's case has been ongoing for some time. He questioned why Dr Mahdavi would require two weeks to prepare documentation that was already in her possession. Mr Rankin submitted that Dr Mahdavi had a significant amount of time already to prepare her documentation for this hearing and had not done. He submitted that the hearing should not adjourn for two weeks.

The Relevant Legal Principles

170. The Tribunal had regard to Rule 29(2) of the Rules:

‘(2) Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.’

171. The Tribunal also had regard to the principles to be applied arising out of the decisions in *General Medical Council v Adeogba* [2016] EWCA Civ 162, [2016] 1 WLR 3867 and *Sanusi v General Medical Council* [2019] EWCA Civ 1172; [2019] 1 WLR 6273.

The Tribunal’s Decision

172. In reaching its decision, the Tribunal considered the impact to Dr Mahdavi of proceeding, and whether there would be any unfairness in doing so.

173. The Tribunal had regard to the reason why Dr Mahdavi was making this application. She was seeking an adjournment for two weeks to prepare her documentation and her response to the GMC’s case because, as she acknowledged, she has not fully engaged with the GMC or MPTS Case Management up to this point.

174. The Tribunal was mindful that this case was referred to the GMC in December 2022. The GMC’s investigation has been ongoing for a significant amount of time and Dr Mahdavi had been given multiple opportunities to respond. At the First Listing Telephone Conference on 29 November 2023, Dr Mahdavi raised concerns in relation to the GMC’s witnesses and evidence, she was directed to disclose to the GMC any evidence she intended to rely on by 5 April 2024. During the Pre-hearing meeting on 4 April 2024, Dr Mahdavi again indicated that she felt some information may be missing from her case. Directions were set by the Case Manager for disclosure of the draft bundle by the GMC to Dr Mahdavi, clearly marked, in hard copy as well as electronically, by 22 April 2024. Dr Mahdavi was directed to respond with any addition, redaction or removal requests by 29 May 2024. A joint bundle was to be filed on the Tribunal by 17 June 2024 and the parties were expected to confirm to the Case Manager compliance with the directions and any adjustments to the listing of the hearing by 10 June 2024.

175. At Dr Mahdavi's request the Tribunal received into evidence a bundle of email correspondence, a separate email from Dr Mahdavi requesting the GMC to withdraw the Allegation referencing Rule 28, and the GMC's consideration and rejection of that request. The bundle of emails contains what Dr Mahdavi describes as two key documents for her case. Within the bundle of emails there is also correspondence from the GMC contacting Dr Mahdavi asking her to review and agree the evidence to be put before the Tribunal. Dr Mahdavi chose not respond to the GMC until after the deadline for service of the joint bundle had passed. The GMC provided the hearing bundle to the Tribunal, with the caveat that its contents had not been agreed by Dr Mahdavi.

176. Dr Mahdavi explained that she now needs further time because the hearing bundle is missing evidence. She explained to the Tribunal that she has been dealing with other matters in her personal life and has not had the capacity to consider these proceedings thus far. The Tribunal acknowledged that Dr Mahdavi is not legally represented. She stated multiple times to the Tribunal that the evidence before it was incomplete, even including the additional evidence she had provided, without specifying what is missing.

177. The Tribunal noted that Dr Mahdavi has already been able to provide it with some evidence she wishes to rely upon, including what she says are two important documents. The additional documentation that Dr Mahdavi wishes to rely upon are already in her possession.

178. The Tribunal considered the length of the adjournment sought by Dr Mahdavi, although relatively short, would necessitate the hearing being re-listed. The Tribunal considered the cost to the GMC and the MPTS of doing so, and the impact on the scheduled witnesses. It noted the witnesses had already been stood down once due to Dr Mahdavi's non-engagement with directions.

179. The Tribunal took into account that Dr Mahdavi has known about the date of this hearing for some time and the evidence she believes is missing from the bundles, but has chosen not to comply with the MPTS Case Management directions.

180. The Tribunal considered that the issues raised by Dr Mahdavi now are a result of her own inaction, and by her own admission she had chosen not to engage until the last moment.

181. The Tribunal acknowledged that Dr Mahdavi is not represented and therefore may require additional time throughout these proceedings to ensure she is prepared. However,

given the documents she seeks to rely upon are in her possession, the Tribunal considered that it would be an unreasonable delay to adjourn for two weeks. The Tribunal was satisfied that appropriate time could be given during the current hearing, as and when it was appropriate to do so, to allow Dr Mahdavi the opportunity to identify and provide any documents she considered the Tribunal was missing and to prepare any submissions she may wish to make as the case progressed.

182. In balancing fairness to Dr Mahdavi against the overarching objective, the Tribunal took into account all of the relevant factors. In considering the public interest, the Tribunal bore in mind that it is important that hearings take place within a reasonable time of the events to which they relate. The Tribunal determined that the fair, economic, expeditious and efficient disposal of the hearing weighed against Dr Mahdavi's application for an adjournment for two weeks, when additional time could be given to Dr Mahdavi during the hearing to prepare. It therefore determined to refuse Dr Mahdavi's application to adjourn for two weeks.

ANNEX B – 09/07/2024

Tribunal Directions for Dr Mahdavi

1 July 2024

183. On day one of the hearing, the Tribunal refused Dr Mahdavi's application for an adjournment for two weeks. It proceeded to consider how best to manage the timetabling of the hearing in order to give Dr Mahdavi sufficient time to prepare.

184. Having failed to comply with the previous Case Management directions, Dr Mahdavi had not provided a witness statement. There are, she submitted, further relevant documents that should be before the Tribunal. In addition, as Dr Mahdavi failed to respond to the direction to confirm whether she required the two GMC witnesses to attend the hearing, they were stood down.

185. The GMC confirmed to the Tribunal that both their witnesses could be made available, but having been stood down previously, they would not be immediately available. There would therefore be a break in the proceedings. The Tribunal considered that the break afforded Dr Mahdavi sufficient opportunity to prepare her witness statement and produced the missing documents.

186. The Tribunal considered that it would assist Dr Mahdavi's case preparation if she first heard the GMC opening as set out by Mr Rankin. It was of the view that this would assist her in reviewing the documents she wished to rely upon and in preparing her own witness statement. It would be clear to her how the GMC was putting its case, what the issues are and the evidence the GMC relies upon to prove each part of the Allegation.

187. To ensure the smooth running of the proceedings and to further assist Dr Mahdavi the Tribunal issued a series of Case Management directions. These directions were set out and explained during the hearing to Dr Mahdavi. She confirmed to the Tribunal that she understood them. In addition, the directions were reconfirmed in an email after the hearing had adjourned.

188. The email was sent by the MPTS Tribunal Clerk on behalf of the Tribunal to Dr Mahdavi and the GMC Solicitor at 16:20 on 1 July 2024. It said:

'Dear Dr Mahdavi,

To confirm what was outlined by the Legally Qualified Chair in session, by midday tomorrow, please provide to the GMC:

- 1. Any document that is not already in evidence before the Tribunal. You should include any documentation not already in evidence that you wish to question [Mr A] or [Dr B] about or that you wish the Tribunal to consider;*
 - a. The Tribunal only has C1 – 130 pages, Hearing Bundle; D1 - 42 pages, Supplementary Bundle; D2 - 11 pages, Email Chain between you and GMC; D3 - Rule 28 Decision.*
- 2. Any redactions that have been made to C1 that you disagree with and why you say they are relevant and it would be fair for the Tribunal to see;*
- 3. A witness statement setting out your own evidence, including your response to the four paragraphs of the Allegation;*

In addition, you should consider what questions, if any, you would have for [Mr A].

I have attached a copy of the Allegation and a template for creating your witness statement.

I would be grateful if you could confirm receipt.'

189. The Tribunal adjourned the hearing until 12 noon on day two of the hearing, in order to confirm that the directions had been complied with. The Tribunal agreed that the GMC would be given until 14:00 to consider matters arising from any documentation provided by Dr Mahdavi, before proceeding to hear from the first GMC witness.

ANNEX C – 09/07/2024

Variation of Tribunal Directions for Dr Mahdavi

2 July 2024

190. When the hearing reconvened at 12:09 on 2 July 2024, Dr Mahdavi informed the Tribunal that she had not complied with the Case Management directions issued by the Tribunal the day before.

191. Dr Mahdavi told the Tribunal that although she had started preparing her witness statement, she had not yet finalised it. In addition to that, it was taking her time to go through the documents from the previous bundles she had been sent by the GMC. She informed the Tribunal that she would require further time to complete her witness statement. Having confirmed the Tribunal had the *'two key documents'* in the supplemental bundle, Dr Mahdavi indicated that she did not need time to consider providing further documents at this stage. She did however produce three further documents, which were not objected to by the GMC and which the Tribunal admitted into evidence.

192. Mr Rankin did not oppose the granting of an extension to the deadline for service of Dr Mahdavi's witness statement. The Tribunal therefore varied the previous Case Management direction giving Dr Mahdavi an extension until 17:00 on 3 July 2024 to provide her witness statement to the GMC. It took into account that part of the time would be spent in session hearing from witnesses, but accepted Dr Mahdavi's assurance that it would be sufficient time for her to complete the witness statement.

193. The Tribunal reminded Dr Mahdavi of the potential consequences of non-compliance with Case Management directions.

ANNEX D – 09/07/2024

Determination on Adjournment and Variation of Tribunal Directions

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

2 July 2024

195. During day two of hearing, Dr Mahdavi became unavailable for short periods of time during the hearing on two occasions. XXX. Dr Mahdavi confirmed that she was content to continue with the hearing and was able to question the GMC witness, who was part way through their evidence.

3 July 2024

196. Before the hearing commenced on day three, Dr Mahdavi sent an email to the MPTS at 09:31 stating:

‘Sadly. I could nt prepare the witness statement.

[XXX]

Plz send my apology to the Panel.

I am working on it’ [sic]

197. The Tribunal took into account the content of Dr Mahdavi’s email. In addition, it was mindful of its direction for the statement to be submitted to the GMC by 17:00 and of the expectation that Dr Mahdavi would be cross-examining both GMC witnesses during the day. It determined to vary the previous Case Management direction giving Dr Mahdavi a further extension until 09:00 on 4 July 2024 to provide her witness statement to the GMC. This variation was not opposed by the GMC.

198. On the morning of day three, at 09:51 the hearing adjourned for ten minutes to allow the GMC to send Dr Mahdavi some documentation it was seeking adduce into evidence. Dr Mahdavi did not return for over half an hour. In an email sent to the MPTS at 10:09, Dr Mahdavi said XXX

199. When the hearing resumed at 10:33, the Legally Qualified Chair confirmed that the hearing would sit in private in order to be able to explore, in more specific detail, the matters about XXX Dr Mahdavi and the potential impact on her ability to participate in the proceedings.

200. XXX

201. Dr Mahdavi explained that she is finding it difficult to fully engage with the hearing as XXX. Dr Mahdavi confirmed that she is therefore struggling to focus on these proceedings at the moment. On questioning, she requested a two-day adjournment to allow resolution of the other matter. She subsequently advised that she felt she would just require the rest of the day. Dr Mahdavi confirmed to the Tribunal that she would be ready to continue her cross-examination of Mr A, and commence her cross-examination of Dr B on 4 July 2024.

202. The Tribunal requested that the GMC make enquiries about the availability of its witnesses. It was mindful that Mr A had been bound by his affirmation overnight and had not resumed his evidence as expected on 3 July 2024. Mr Rankin, on behalf of the GMC, confirmed that both witnesses were available on 4 July 2024.

203. The Tribunal took into account the information provided by Dr Mahdavi about her personal life and its impact on her ability to engage fully with these proceedings. It bore in mind that the GMC witnesses were available on 4 July 2024. In such circumstances, the Tribunal determined that it would be unfair to continue with proceedings on 3 July 2024, expecting Dr Mahdavi to cross-examine witnesses whilst XXX. It considered that allowing Dr Mahdavi the adjournment that she had requested today would allow her the opportunity to fully engage with proceedings once XXX, which she confirmed would be by the end of 3 July 2024.

204. Accordingly, the Tribunal determined to adjourn until 09:00 on 4 July 2024.

ANNEX E – 09/07/2024

Application to Adjourn

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

4 July 2024

206. On day four, the hearing was due to reconvene 09:00am to deal with any outstanding issues relating to documentation before continuing with the GMC’s witnesses’ evidence. At 09:01am, the MPTS received an email from Dr Mahdavi with the following subject ‘*Applying for adjourn today.*’ XXX

207. The Tribunal considered Dr Mahdavi’s application to adjourn the hearing for a further day.

Submissions

208. Dr Mahdavi provided some further details XXX. She informed the Tribunal that she was still working on her witness statement and was about halfway through. XXX. She told the Tribunal that she did not think it would be fair to her if the hearing were to continue today because she was struggling to focus given the other matter and lack of papers. XXX.

209. On behalf of the GMC, Mr Rankin submitted that any further adjournment of proceedings was opposed. He submitted that the GMC had sympathy for what Dr Mahdavi is experiencing presently. However, she has had over 18 months to prepare for these proceedings and has not done so. He reminded the Tribunal that Mr A, who commenced his evidence on day two of the hearing, has still not concluded his evidence and Dr B was warned for midday on 4 July 2024. Mr Rankin invited the Tribunal to proceed with the hearing and refuse Dr Mahdavi’s application for a further adjournment.

The Relevant Legal Principles

210. The Tribunal had regard to Rule 29(2) of the Rules:

‘(2) Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.’

211. The Tribunal also had regard to the principles to be applied arising out of the decisions in *General Medical Council v Adeogba* [2016] EWCA Civ 162, [2016] 1 WLR 3867 and *Sanusi v General Medical Council* [2019] EWCA Civ 1172; [2019] 1 WLR 6273.

The Tribunal's Decision

212. In determining whether to adjourn the hearing for a further day, the Tribunal balanced fairness to Dr Mahdavi against fairness to the GMC, its witnesses and the overarching objective.

213. The Tribunal had regard to the screenshots that Dr Mahdavi had provided XXX.

214. The Tribunal was satisfied from the evidence provided by Dr Mahdavi XXX. Given XXX, the Tribunal accepted that Dr Mahdavi could be materially disadvantaged by not having access to all of her documentation for the hearing. The Tribunal acknowledged that this situation could, and according to Dr Mahdavi was, impacting on her ability to participate in and fully focus on these proceedings. The Tribunal noted that this hearing is important and could, depending on the findings made by the Tribunal, have serious consequences for Dr Mahdavi's ability to practise as a doctor. Therefore, it considered it important that she be in a position to be able to put her case and cross-examine witnesses.

215. The Tribunal was mindful of the impact of further delay to the GMC witnesses. Given Dr Mahdavi's previous non-engagement, both witnesses had been stood down and had been advised that they would not be required to attend these proceedings. Since Dr Mahdavi's re-engagement, both had made themselves available to give oral evidence. Mr A, having started to give his oral evidence on 2 July 2024, has still not completed his evidence and remains bound by his affirmation. It was also mindful the second GMC witness, was expecting to give their evidence from midday on 4 July 2024.

216. In considering fairness to the witnesses, the Tribunal sought further information from the GMC about their availability for the rest of the hearing listing. It was confirmed that both witnesses could be available again before the last listed hearing day on 9 July 2024.

217. The Tribunal was aware of the significant amount of time it had already lost during this hearing, in part due to Dr Mahdavi's extremely late re-engagement with the case and her previous non-compliance with directions. Dr Mahdavi had, since these proceedings commenced, continued to fail to comply with directions. However, there was evidence to

support her explanation that her latest failure was brought about by an inability to focus on these proceedings due to XXX. In circumstances where the interruptions to Dr Mahdavi, the absence of having all the documents and XXX did not seemingly arise through Dr Mahdavi's own actions, the Tribunal determined that it would be unfair to proceed with the hearing today.

218. In balancing fairness to Dr Mahdavi against the overarching objective, the Tribunal took into account all of the relevant factors. The Tribunal determined that there was a good reason to adjourn the hearing for a further day. It considered this would be sufficient to allow Dr Mahdavi time to XXX access the material needed to participate fully in these proceedings and to allow her time to re-focus on preparing her case.

ANNEX F – 09/07/2024

Determination on Adjournment and Tribunal Directions

219. On day seven, the final listed day of this hearing, the Tribunal handed down its determination on facts and five annexes documenting the various applications Tribunal directions, variations and delays in proceedings.

220. Having found the Allegation proved in its entirety, it was clear to the Tribunal and the parties that there would not be sufficient time to conclude the hearing in the remaining time. The Tribunal determined to adjourn the hearing.

221. The Legally Qualified Chair (LQC) set out to Dr Mahdavi what information could assist the Tribunal in its assessment of her fitness to practise.

Tribunal Directions

222. To assist with the smooth running of proceedings when the hearing reconvenes, the Tribunal issued the following directions:

- No later than 56 days before the recommencement of this hearing, the GMC must provide Dr Mahdavi with any evidence it intends to rely on at the impairment stage;

- No later than 28 days before the recommencement of this hearing, Dr Mahdavi must provide the GMC with any evidence she intends to rely on at the impairment stage. This could include:
 - A further written witness statement if Dr Mahdavi intends to oral evidence at the hearing;
 - This statement could include any reflections from Dr Mahdavi about the Tribunal’s findings, any mitigation and any remediation she has undertaken;
 - Any testimonials or references written in support of Dr Mahdavi;
 - Any evidence of Continuing Professional Development (CPD) to demonstrate how Dr Mahdavi has kept her clinical knowledge and skills up to date;
 - Any other relevant evidence Dr Mahdavi believes will assist the Tribunal in determining whether her fitness to practise is impaired.
- By 16:00pm on Friday 6 December 2024 the GMC must either provide a joint bundle of any additional evidence relied upon for the impairment stage or notify the Tribunal that there is no further evidence.

223. Without a good reason for any non-compliance the Tribunal may refuse to admit any further evidence not submitted in accordance with the above directions.

224. This hearing has adjourned part heard and will resume at 09:30am on 16 December 2024 for four days.

ANNEX G – 19/12/2024

Determination on Admission of further evidence

225. Despite directions for service of any further evidence being set when the Tribunal went part heard, Dr Mahdavi did not comply with them. Save for one testimonial provided late, Dr Mahdavi had provided no further evidence. She outlined that due to various

difficulties she had not complied, there were a number of documents she wished to provide for the Tribunal to consider. In agreeing to extend time for Dr Mahdavi to serve her witness statement and additional documents, the Tribunal advised the parties that no further evidence would be admitted after that extended deadline.

226. Dr Mahdavi sought, after the extended deadline, to adduce further evidence that she submitted the Tribunal should rely upon to give her the benefit of the doubt that she was not dishonest. It consisted of a message received from the locum agency on 6 October 2022 which Dr Mahdavi said supported her contention that the record check was conducted that day and proved she was not suspended when she worked.

227. Mr Rankin submitted that the document was being provided too late, contrary to the Tribunal's decision not to admit any further evidence. Further, it was irrelevant given the Tribunal could not reopen its findings of fact. Having heard the GMC's submission and being reminded of the deadline for evidence, Dr Mahdavi informed the Tribunal that she did not wish to try and persuade it to admit the evidence.

228. Whilst *in camera* considering whether Dr Mahdavi's fitness to practise was impaired, the Tribunal was made aware of three further documents from Dr Mahdavi which had been provided via the GMC. These were:

- i. An email from Dr Mahdavi to Mr G an employee of the locum agency
- ii. An email from Mr G to Dr Mahdavi setting out proposed locum sessions she could work
- iii. Incomplete screenshots of an email dated 6 October 2022 from Mr G to Dr Mahdavi.

229. The documents appeared to correspond to those which Dr Mahdavi had previously sought to adduce but had withdrawn the application to admit them. The Tribunal reconvened to hear from the parties on what, if anything, it was being invited to do about the documents.

230. Mr Rankin informed the Tribunal he was unaware why they had been provided to the Tribunal. Having sought instruction, he notified the Tribunal that they had been sent to the Tribunal when the application to admit them was being considered, out of caution. It would appear, he submitted, that it had been disclosed to the Tribunal members in error, given Dr Mahdavi had withdrawn her application to adduce them. He advised the Tribunal that the GMC's position remained the same, the documents were provided in breach of Tribunal directions and were in any event irrelevant.

231. Dr Mahdavi informed the Tribunal she now wished for the Tribunal to consider the documents. They were, she submitted, important and would enable the Tribunal to give her the benefit of the doubt that she was not dishonest.

232. The Tribunal was directed by the LQC to the decision of *Nduku v General Medical Council* [2017] EWHC 1396 (Admin) and reminded that the Rules do not permit the re-opening of the Tribunal's findings of fact once handed down. The Tribunal was reminded that Rule 16 provided it with the powers to manage the proceedings and that Rule 16A states:

“(1) Paragraph (2) applies where, in a matter referred to the MPTS for them to arrange for consideration by a Medical Practitioners Tribunal under rule 17, 22 or 24 (as the case may be) on or after the relevant date, a party fails to comply with—

(a) these Rules, or

(b) a direction which was issued on or after that date by the Tribunal or the Case Manager.

For these purposes, the “relevant date” is the date this provision comes into force.

(2) Where there is a failure referred to in paragraph (1), a Medical Practitioners Tribunal may in respect of that failure—

(a) draw adverse inferences;

(b) refuse to admit evidence where the failure relates to the admissibility of that evidence; and

(c) award costs in accordance with rule 16B (a costs award).”

233. The Tribunal were also reminded of Rule 34(1) on the admissibility of evidence:

“(1) The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.”

234. Dr Mahdavi has repeatedly failed to comply with directions issued to her by the Case Manager and by the Tribunal. The documents she now seeks to rely upon were provided in breach of a direction set by the Tribunal providing a final cut off for her to provide all of her evidence. Despite having the evidence in her possession, she did not provide this as required, although she could have done so. Indeed, the evidence was available to her prior to the Tribunal reaching its determination on facts and she could have, if she wished, provided the evidence then.

235. The Tribunal noted that Dr Mahdavi sought to adduce the evidence to try and have the Tribunal revisit its previous factual findings, something that it is unable to do under the Rules. In the absence of any reasonable justification for Dr Mahdavi's failure to comply with the final direction for service of evidence issued by the Tribunal, the Tribunal declined to admit the documents, or any other material sent to the GMC late, into evidence.

SCHEDULE 1

Date worked	Location worked at
21 October 2022	Langstone Way Surgery
25 October 2022	Langstone Way Surgery
26 October 2022	Langstone Way Surgery
27 October 2022	Langstone Way Surgery
28 October 2022	Langstone Way Surgery
31 October 2022	Langstone Way Surgery
2 November 2022	Langstone Way Surgery
3 November 2022	Addington Medical Centre
4 November 2022	Addington Medical Centre
7 November 2022	Valley View Health Centre
8 November 2022	Valley View Health Centre
14 November 2022	Valley View Health Centre
15 November 2022	Langstone Way Surgery
18 November 2022	Langstone Way Surgery
22 November 2022	Langstone Way Surgery
24 November 2022	Langstone Way Surgery
25 November 2022	Langstone Way Surgery