

PUBLIC RECORD

Dates: 13/12/2021 - 17/12/2021; 21/12/2022 - 22/12/2022; 14/02/2023 - 15/02/2023;
01/08/2023 - 04/08/2023

Medical Practitioner’s name: Dr Mohamed HASSAN
GMC reference number: 4677235
Primary medical qualification: MB BCh 1985 Ain Shams University

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

Summary of outcome

Erasure

Immediate order imposed

Tribunal:

Legally Qualified Chair	Miss Megan Larrinaga
Lay Tribunal Member:	Mr Robert McKeon
Medical Tribunal Member:	Dr Paolo De Marco

Tribunal Clerk:	Mr Edward Kelly – 13/12/2021 - 17/12/2021 Mr Mathew Rowbotham 21/12/2023 to 22/12/2022 Ms Angela Carney 14/02/2023 to 14/02/2023 Ms Jemine Pemu - 01/08/2023 to 04/08/2023
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Attendance and Representation:

Medical Practitioner:	Present and not represented 13/12/2021 - 17/12/2021, 21/12/2022, 14/02/2023- 15/02/23 and 01/08/2023 Not present or represented 22/12/2023 and 02/08/2023 – 04/08/2023
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Medical Practitioner’s Representative:	N/A
GMC Representative:	Mr Carl Hargan, Counsel – 13/12/2021 - 17/12/2021 Mr Charles Garside KC – 21/12/2023 to 22/12/2022 and 14/02/2023 to 15/02/2023 Mr Terence Rigby, Counsel – 01/08/2023 – 04/08/2023

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 21/12/2022

Background

1. Dr Hassan qualified from Ain Shams University in Egypt where he obtained an MB BCH in 1985.
2. The allegation that has led to Dr Hassan’s hearing can be summarised as that on 7 February 2019, he was convicted of assaulting Mr A contrary to Section 39 of the Criminal Justice Act 1998, of using threatening abusive or insulting words or behaviour towards Miss B and Miss C with the intent to cause them to believe that immediate use of unlawful violence would be used against them or to provoke the immediate use of unlaw violence where they were likely to believe that such violence would be used or provoked contrary to Sections 4(1) and (4) of the Public Order Act 1986. It is also alleged that on 6 September 2019, Dr Hassan was sentenced to eighteen weeks imprisonment.
3. Between 23 July 2012 and 30 April 2013 Dr Hassan was employed by Barts Health NHS Trust (‘the Trust’) on a fixed term contract as a Locum Consultant in Reproductive Medicine. During the course of his employment at the Trust Dr Hassan raised concerns about the levels of Ovarian Hyperstimulation Syndrome (‘OHSS’) suffered by patients during their treatment at the Trust. OHSS is a complication of fertility treatment where the ovaries

develop too many follicles as they respond to medication. Dr Hassan's concerns were investigated by the Trust and the Human Fertilisation and Embryology Authority ('HFEA'). The HFEA is the independent regulator of fertility treatment and research using human embryos in the United Kingdom. Both reviews concluded that there was no cause for concern.

4. In March 2013, the Trust advertised two fixed term locum posts. Dr Hassan applied for both posts but his applications were unsuccessful. As a consequence, Dr Hassan's contract with the Trust was terminated on 30 April 2013. Dr Hassan sought to obtain a High Court injunction to prevent the successful candidates taking up their posts and issued two Judicial Review claims against the Trust. The High Court refused to issue an injunction on the basis that it had no jurisdiction to hear that complaint and dismissed his Judicial Review claims. Dr Hassan was ordered to pay the Trust's costs in defending the claims in the sum of £16,000.

5. In May 2013 Dr Hassan brought a claim against the Trust in the Employment Tribunal ('ET') claiming unfair dismissal, whistleblowing and breach of contract. His case was heard over a two-week period in March 2014. Dr Hassan's conduct during the ET proceedings was described as volatile, disruptive and unreasonable. The ET dismissed his claim, finding that it was wholly without merit and he was ordered to pay the Trust's costs in the sum of £88,379.

6. Dr Hassan appealed the decision of the ET to the Employment Appeals Tribunals ('EAT') and also made applications to the Court of Appeal. This Tribunal understands that none of his appeals in either the EAT or the Court of Appeal has been successful to date. In addition to appealing the March 2014 ET decision, Dr Hassan issued three new sets of ET proceedings which he asked to be dealt with at the East London Employment Tribunal ('ELET'). The Trust asked that any decision in respect of the new claims should either be dismissed or stayed pending the outcome of other proceedings. The matter was listed for a preliminary hearing on 7 February 2019 at the ELET.

7. On the morning of 7 February 2019, Dr Hassan, supported by his brother were delayed in arriving at the ELET. Present in the hearing room were the ET judge (Miss C in the Allegation) and the barrister representing the Trust (Miss B in the Allegation) who was pregnant with twins. It was alleged that on entering the hearing room both Dr Hassan and his brother were immediately aggressive and refused to recognise the authority of Miss C. Dr Hassan and his brother were asked to leave the hearing room and when they refused to do so, both security and the police were called. There appears to have been a commotion outside the hearing room involving Dr Hassan's brother which caused Miss C to leave the hearing room. She returned to the hearing room a short time later where both Miss C and Miss B left the hearing room. Miss C and Miss B sought refuge in another hearing room

where a lay ET member (Mr A in the Allegation) was located and Dr Hassan was seen on CCTV pursuing Miss C and Miss B through the corridor as they sought to escape to the other Tribunal hearing room. Mr A's witness statement stated that a male, now known to be Dr Hassan was shouting at Miss C but he and a security guard stood either side of Dr Hassan which allowed Miss C to leave the hearing room. Dr Hassan tried to follow Miss C through the corridor but was stopped from doing so when a security guard grabbed him from behind. On being grabbed from behind Dr Hassan grabbed the tie around the neck of Mr A and it was not until other security guards entered the room and pulled Dr Hassan off Mr A did he release his grip of the tie. Dr Hassan then left the Tribunal room and was again seen on CCTV making his way through the corridor to the court office where Miss C and Miss B were seeking refuge. Dr Hassan was alleged to have tried to force his way into the court office and had to again be restrained by security officers. As a result of the disturbance at the ELET on 7 February 2019, Dr Hassan was charged with one count of common assault against Mr A for grabbing the tie around his neck. He was also charged with using threatening, abusive or insulting words with the intent to cause both Miss C and Miss B to believe that the immediate use of unlawful violence would be used against them contrary to Section 4 of the Public Order Act 1986.

8. Dr Hassan pleaded not guilty to each of the charges. He was tried at Westminster Magistrates' Court over two days and was found guilty of all the charges on 7 August 2019. He was sentenced to six weeks immediate imprisonment for each of the offences for a total of 18 weeks to be served concurrently. He was also ordered to pay a total of £700 in compensation to the victims and £930 to the Crown Prosecution Service towards the costs of the prosecution.

9. Dr Hassan appealed his conviction to Snaresbrook Crown Court and his appeal was heard over a six-day period concluding on 19 April 2021. The basis of Dr Hassan's appeal was that the prosecution witnesses were all making false allegations against him, there was a conspiracy against him as he had tried to raise concerns against the Trust, that the security officers at ELET had tried to murder him and the CCTV was tampered with to subvert the evidence of his attempted murder. Dr Hassan's appeal was ultimately dismissed with the judge rejecting the allegations of a conspiracy and attempted murder. The judge also found that each of the offences were proved to the required criminal standard. The Court identified a number of aggravating factors in the case including that the offences took place inside court rooms and against judicial office and public office holders in the course of carrying out their legal functions, and in the case of Mr A while he was trying to protect his judicial colleague. In considering mitigation, the Court found that Dr Hassan was of previous good character and the fact that no physical injury was caused in relation to any of the offences. The court upheld the sentence imposed on Dr Hassan but given that he had already served the sentence by the time the appeal was heard he was not returned to prison. However, the

Court imposed a restraining order prohibiting Dr Hassan from contacting directly or indirectly Mr A, Miss C and Miss B and further prohibited him from going to the ELET for a period of 7 years. The Court also imposed a costs order in the sum of £5000 against Dr Hassan.

10. Dr Hassan was first referred to the GMC by the Trust on 23 April 2019. The Trust made an amended referral on 31 May 2019. On 25 September 2019, the GMC received a certificate of conviction from Westminster Magistrates' Court. The Certificate of Conviction confirmed that Dr Hassan had appealed his conviction to Snaresbrook Crown Court.

11. Dr Hassan has brought at least two judicial review claims in the Administrative Court against his conviction, at least two judicial review claims against the GMC in respect of its decision to bring proceedings against him and at least one judicial review claim in respect of the decision of the Interim Orders Tribunal. Dr Hassan has also made a further appeal against his criminal conviction. The status of that further appeal is unknown to this Tribunal. All of Dr Hassan's judicial review claims have been dismissed and at least three have been certified as totally without merit. In addition to the claims made in the Administrative Court, Dr Hassan has sought permission to appeal to the Court of Appeal on at least four occasions and has made an application to the European Court of Human Rights. Two of Dr Hassan's applications for permission to appeal to the Court of Appeal have been refused and certified as totally without merit and based on the information before the Tribunal, two matters remain outstanding. In one of the judicial review claims, a further costs order in the sum of £10,000 was made against Dr Hassan.

12. As a result of at least three of his judicial review claims being certified as totally without merit, on 14 October 2021 a judge of the High Court imposed a General Civil Restraint Order ('GCRO') against Dr Hassan. The effect of the GCRO is that Dr Hassan is restrained (prohibited) from issuing any claim or making any application in the High Court or the County Court without the permission of the judge who imposed the GCRO.

13. Dr Hassan has consistently denied any wrongdoing and does not accept the judgements of the Employment Tribunals or the Courts. Dr Hassan has not practiced as a doctor since his contract with the Trust was terminated on 30 April 2013.

The Outcome of Applications Made during the Facts Stage

14. During the facts stage, Dr Hassan made four separate applications to the Tribunal. The first was to admit a bundle of documents totalling over 4,600 pages into evidence on his behalf. The Tribunal granted the application under Rule 34(1) of the General Medical Council ('Fitness to Practise') Rules 2004 (as amended) ('the Rules'). A copy of the Tribunal's determination can be found at Annex A.

15. Dr Hassan also made an application for the proceedings to be adjourned in light of his outstanding applications to the Administrative Court, Court of Appeal and European Court of Human Rights. The Tribunal refused this application. The Tribunal's determination is set out at Annex B.
16. Dr Hassan made an application for the Tribunal to recuse itself on the basis that it was biased and he could not get a fair hearing. The Tribunal refused this application, and its determination is set out at Annex C.
17. The Tribunal granted an application from the GMC made under Rule 34(1) of the Rules to admit further evidence. Its determination is set out at Annex D.
18. The Tribunal refused Dr Hassan's an application his brother to give evidence at the fact-finding stage under Rule 34(1) to the Rules. The Tribunal's determination is set out at Annex E.

The Allegation and the Doctor's Response

19. The Allegation made against Dr Hassan is as follows:
 1. On 7 August 2019 at Westminster Magistrates' Court you were convicted of:
 - a. 'On 7 February 2019 at Import Building, 2 Clove Crescent, London, E14 2BE, assaulted Mr A', contrary to section 39 of the Criminal Justice Act 1988;
To Be Determined
 - b. 'On 7 February 2019 at Tribunal Rooms, London used towards Ms B threatening, abusive or insulting words or behaviour with intent to cause that person to believe that immediate use of unlawful violence would be used against her by any person, or to provoke the immediate use of unlawful violence by her whereby that person was likely to believe that such violence would be used, or it was likely that such violence would be provoked', contrary to section 4(1) and (4) of the Public Order Act 1986; **To Be Determined**
 - c. 'On 7 February 2019 at Tribunal Rooms, London used towards Ms C threatening, abusive or insulting words or behaviour with intent to cause that person to believe that immediate use of unlawful violence would be used against her by any person, or to provoke the immediate use of unlawful

violence by her whereby that person was likely to believe that such violence would be used, or it was likely that such violence would be provoked’, contrary to section 4(1) and (4) of the Public Order Act 1986. **To Be Determined**

2. On 6 September 2019 at Westminster Magistrates’ Court you were sentenced to 18 weeks’ imprisonment. **To Be Determined**

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

The Facts

20. Dr Hassan denied all paragraphs of the Allegation. During his submissions to the Tribunal, he gave evidence that he was not guilty of the offences for which he was convicted, and also that he was not the person to which the Certificate of Conviction related. In light of Dr Hassan’s response to the Allegation made against him, the Tribunal is required to reach its determinations in relation to all of the paragraphs as alleged.

Documentary Evidence

21. The Tribunal had regard to all the documentary evidence adduced during these proceedings. This evidence included, but was not limited to:

- Notes from Capsticks Solicitors setting out the background to Dr Hassan’s case, dated 23 April 2019;
- Certificate of Conviction, dated 6 September 2019;
- MG5 Case summary prepared by the Metropolitan Police, dated 24 September 2019;
- MG11 Police Statements of the two officers who attended at the ELET on 7 February 2019 both of which were dated on the same date;
- Transcript of the judgment on appeal and the remarks on sentencing dated 19 April 2021;
- Dr Hassan’s documentary evidence including but not limited to the concerns he raised at the Trust, details of the harm he said patients suffered during their treatment at the Trust as well as the basis of his applications and appeals in the Employment Tribunal, Administrative Court, Court of Appeal and European Court of Human Rights.

22. Dr Hassan also gave oral evidence to the Tribunal, via video link.

The Tribunal's Approach

23. In reaching its decision on the 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 Hassan 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 as alleged.

24. The Tribunal was also mindful of Rule 34 of the Rules, which provides:

“...

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

(4) Production of a certificate signed by an officer of a regulatory body that has made a determination about the fitness to practise of a person shall be conclusive evidence of the facts found proved in relation to that determination.

(5) The only evidence which may be adduced by the practitioner in rebuttal of a conviction or determination certified in the manner specified in paragraph (3) or (4) is evidence for the purposes of proving that he is not the person referred to in the certificate or extract.”

25. In considering Dr Hassan's evidence that he was not guilty of the offences of which he was convicted, the Tribunal reminded itself that in professional disciplinary proceedings, save for exceptional circumstances, a registrant cannot go behind the conviction and seek to assert that they were not guilty of the offences of which they were convicted or seek to relitigate the matters giving rise to the conviction before the Tribunal.

The Tribunal's Analysis of the Evidence and Findings

26. The Tribunal has considered each subparagraph of the Allegation separately, has taken into account the submissions of Mr Hargan on behalf of the GMC, and from Dr Hassan, and has evaluated the evidence in order to make its findings on the facts.

Paragraph 1 of the Allegation

27. The Tribunal considered the allegation that on 7 February Dr Hassan assaulted Mr A contrary to Section 39 of the Criminal Justice Act 1988. The Tribunal also considered the allegation that on 7 February 2019 at Tribunal Rooms, London, Dr Hassan used towards Ms B

threatening, abusive or insulting words or behaviour with intent to cause that person to believe that immediate use of unlawful violence would be used against her by any person, or to provoke the immediate use of unlawful violence by her whereby that person was likely to believe that such violence would be used, or it was likely that such violence would be provoked', contrary to section 4(1) and (4) of the Public Order Act 1986 and that this allegation was repeated in identical words in respect of Miss C.

28. The Tribunal had regard to the Certificate of Conviction which recorded that Dr Hassan pleaded not guilty to each of the offences on 26 April 2019 but was found guilty on each count on 7 August 2019. The Tribunal also had regard to the fact that although Dr Hassan appealed this conviction, the conviction was upheld on 19 April 2021. The Tribunal noted that the wording of the Allegation at paragraph 1 mirrored the wording of each of the offences set out in the Certificate of Conviction.

29. The Tribunal had regard to Dr Hassan's assertion that he was not the person to which the Certificate of Conviction related. It noted that, save for making the statement, Dr Hassan adduced no evidence to support this assertion. In any event, the Tribunal also noted that the first page of the Certificate of Conviction recorded Dr Hassan's date of birth, age, gender and nationality all of which was consistent with the information held by the GMC on Dr Hassan.

30. In the circumstances, the Tribunal was satisfied on the balance of probabilities that Dr Hassan was the person to which the Certificate of Conviction related. It was further satisfied that, by provision of the Certificate of Conviction, the GMC had discharged its burden of proof.

31. Accordingly, the Tribunal determined that paragraph 1 of the Allegation was found proved in its entirety.

Paragraph 2

32. The Tribunal considered the allegation that on 6 September 2019 at Westminster Magistrates' Court, Dr Hassan was sentenced to 18 weeks' imprisonment. The Tribunal noted from the Certificate of Conviction, that in relation to the conviction for assaulting Mr A, Dr Hassan was committed to prison for 6 weeks with the reason for the imprisonment stating "*offence so serious because attack on people at work, no remorse, hostility towards staff in justice system, high risk to staff in justice system, attack on people serving public...Overall length of sentence 18 weeks*". In relation to the offences against Miss B and C, the Certificate of Conviction reiterated the same comments with the addition of the words "*Committed to prison for 6 weeks consecutive to offence number [1 and 2]*" respectively.

33. The Tribunal was satisfied that the totality of the sentence imposed following Dr Hassan’s conviction was a period of imprisonment for 18 weeks. The Tribunal also noted that this was reiterated and upheld in Dr Hassan’s appeal against his conviction and that this time period was also reflected in the sentencing remarks at his appeal.

34. For the reasons set out in respect of paragraph 1 of the Allegation, the Tribunal was satisfied that Dr Hassan was the person who was sentenced to 18 weeks imprisonment and to whom the Certificate of Conviction related.

35. In the circumstances the Tribunal was satisfied that the GMC had discharged its burden of proof.

36. Accordingly, the Tribunal determined that Paragraph 2 of the Allegation was found proved.

The Tribunal’s Overall Determination on the Facts

37. The Tribunal has determined the facts as follows:

1. On 7 August 2019 at Westminster Magistrates’ Court you were convicted of:
 - a. ‘On 7 February 2019 at Import Building, 2 Clove Crescent, London, E14 2BE, assaulted Mr A’, contrary to section 39 of the Criminal Justice Act 1988;
Determined and Found Proved
 - b. ‘On 7 February 2019 at Tribunal Rooms, London used towards Ms B threatening, abusive or insulting words or behaviour with intent to cause that person to believe that immediate use of unlawful violence would be used against her by any person, or to provoke the immediate use of unlawful violence by her whereby that person was likely to believe that such violence would be used, or it was likely that such violence would be provoked’, contrary to section 4(1) and (4) of the Public Order Act 1986;
Determined and Found Proved
 - c. ‘On 7 February 2019 at Tribunal Rooms, London used towards Ms C threatening, abusive or insulting words or behaviour with intent to cause that person to believe that immediate use of unlawful violence would be used against her by any person, or to provoke the immediate use of unlawful violence by her whereby that person was likely to believe that such violence

would be used, or it was likely that such violence would be provoked’,
contrary to section 4(1) and (4) of the Public Order Act 1986.

Determined and Found Proved

2. On 6 September 2019 at Westminster Magistrates’ Court you were sentenced to 18 weeks’ imprisonment.

Determined and Found Proved

And that by reason of the matters set out above your fitness to practise is impaired because of your conviction. **To Be Determined**

Determination on Impairment - 02/08/2023

38. 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 Hassan’s fitness to practise is impaired by reason of his conviction.

The Outcome of Applications Made during the Impairment Stage

39. On 01 August 2023, the Tribunal refused Dr Hassan’s applications, made pursuant to Rule 29(2) of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’), that the Tribunal adjourn proceedings and recuse itself. The Tribunal’s full decision on the application is included at Annex I.

40. On 01 August 2023, the Tribunal invited the GMC to make submissions, pursuant to Rule 31 of the Rules, on whether the hearing should proceed in Dr Hassan’s absence when he failed to attend the hearing being reconvened after lunch. Dr Hassan’s failure to attend after lunch was despite him being present earlier in the day and being aware of the time the Tribunal was due to reconvene. The Tribunal determined that the hearing should proceed in Dr Hassan’s absence. The Tribunal’s full decision on the application is included at Annex J.

41. Following the Tribunal determining to proceed in Dr Hassan’s absence and handing down its determination and adjourning for the day, an email from Dr Hassan was sent on 01 August 2023 timed at 18:19 stating that he had no internet access at his address. The Tribunal received two further emails on the morning of 02 August 2023 one timed at 09:28 which attached an email dated 01 August 2023 timed at 17:18 reiterating that he had no internet access.

42. The Tribunal attempted to contact Dr Hassan on the mobile telephone number registered with the GMC and left voicemails confirming that it was content for him to

participate in the hearing remotely by telephone and provided the information he would need to participate in the hearing by telephone. It also sent an email to his registered email address to the same effect. The Tribunal provided a revised start time for Dr Hassan to attend. Dr Hassan failed to attend at the revised time and thus the Tribunal proceeded with the hearing in his absence.

The Evidence

43. In making its determination on impairment, the Tribunal has taken into account all the evidence received during the facts stage of the hearing.

Submissions

On behalf of the GMC

44. Submissions on impairment, were made on behalf of the GMC on 21 December 2022 by Mr Garside, KC, who was then instructed. He reminded the Tribunal of the requirement to bear in mind the statutory overarching objective and submitted that the need to maintain public confidence in the profession and to promote and maintain proper professional standards of conduct were of particular relevance in this case. Mr Garside further submitted that paragraphs 1, 65 and 72 of Good Medical Practice (2013) ('GMP') were engaged.

45. Mr Garside submitted that this was a disgraceful incident where Dr Hassan used threatening words and behaviour towards a Tribunal Judge exercising her functions in a hearing, towards a barrister representing a health authority and assaulted a lay employment tribunal member who was seeking to protect the judge and barrister. He submitted that Dr Hassan's behaviour took place in public and would be regarded as reprehensible by members of the public. Mr Garside submitted that the gravity of the offences was demonstrated by Dr Hassan being sentenced to an immediate custodial sentence notwithstanding his good character. He reminded the Tribunal that the conviction was upheld despite an appeal.

46. Mr Garside stated that Dr Hassan had never admitted his guilt instead asserting that his conviction was a result of a criminal conspiracy. He further submitted that Dr Hassan showed no insight or remorse and had taken no steps to remediate his conduct. He submitted that there was a real risk of repetition of the behaviour which led to the conviction and that it was in the public interest for a finding of impairment to be made.

Dr Hassan

47. Despite being provided with a variety of opportunities to make submissions on whether his fitness to practise was impaired, no such submissions have been made in writing

or orally. Dr Hassan continues to maintain that he was the victim of a criminal conspiracy and the allegations and evidence against him are false and have been fabricated.

The Relevant Legal Principles

48. 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.

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

50. While there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

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

51. The Tribunal also had regard to the fact that criminal and regulatory standards are different and perform different functions. Therefore, the sentence imposed on Dr Hassan in the criminal case was not a reliable indicator of the seriousness of matters before it and the sentence imposed on Dr Hassan may be insufficient to satisfy the public interest.

The Tribunal's Determination on Impairment

52. In making its determination on impairment, the Tribunal had regard to the test set out by Dame Janet Smith in the Fifth Shipman Report, GMP and the statutory overarching objective. In particular, the Tribunal considered paragraphs 1 and 65 of GMP were engaged:

'1 Patients need good doctors. Good doctors make the care of their patients their first concern...and act with integrity and within the law.'

...

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

Conviction

53. The Tribunal was satisfied there were no issues of patient safety in this case. However, the Tribunal reminded itself of the circumstances giving rise to Dr Hassan's conviction which involved pursuing a female barrister and a female judge when they fled the hearing room having become concerned as to his conduct therein, breaking the glasses of and grabbing the tie around the neck of a lay employment tribunal member who was seeking to protect the judge and barrister and then further pursuing the judge and barrister in a corridor and trying to force his way into the room where they were seeking refuge. The Tribunal was satisfied that Dr Hassan's underlying conduct which led to his conviction and the conviction itself not only brought the medical profession into disrepute but also breached fundamental tenets of the profession.

54. The Tribunal also determined that his underlying conduct leading to the conviction and the conduct itself breached paragraphs 1 and 65 of GMP. The matter of his conviction inevitably means that he has failed to act within the law. It was also satisfied that his actions and conviction did not justify patients trust in him or public confidence in the profession.

55. The Tribunal went on to consider whether Dr Hassan's conduct was capable of remediation. The Tribunal was satisfied that his behaviour leading to the conviction was capable of remediation. However, the Tribunal balanced this against his actions since his conviction including his conduct before this Tribunal where he has steadfastly refused to accept the fact that he was convicted and continues to deny his guilt. His refusal to accept his guilt or the fact of his conviction was contrary to the fact that he had a two-day trial in the Magistrates' Court where he was found guilty to the criminal standard and a six-day appeal in the Crown Court, where his conviction was upheld. Despite the volume of documents provided by Dr Hassan during the course of this hearing, there is no evidence that he has sought to reflect on or made any attempts to remediate his conduct. As such, the Tribunal had concerns there remained a significant risk of repetition of the conduct giving rise to the conviction.

56. The Tribunal also had regard to the statutory overarching objective. While it was satisfied that there were no concerns in respect of patient safety, the Tribunal was satisfied that an informed member of the public would be appalled at Dr Hassan's conduct giving rise

to the conviction. The Tribunal was also satisfied that given Dr Hassan's behaviour and the very fact of his conviction public confidence in the profession and the regulatory process would be seriously undermined if a finding of impaired fitness to practise was not made. Further the Tribunal determined that a finding of impaired fitness to practise was required to declare and uphold proper standards of behaviour.

57. The Tribunal has therefore determined that Dr Hassan's fitness to practise is impaired by reason of a conviction.

Determination on Sanction - 04/08/2023

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

59. Prior to making its determination on sanction, the Tribunal directed that the GMC's submissions on sanction be put in writing to assist Dr Hassan in being able to respond. The Tribunal adjourned on the evening of Wednesday, 2 August 2023 and was due to reconvene at 09:30 on Friday 4 August 2023 to either receive written or hear oral submissions from Dr Hassan.

60. On the evening of 3 August 2023, Dr Hassan emailed the MPTS and others to indicate that he was still having difficulties with his internet connection and that the application for an injunction by Mr D had now been issued by the High Court. At approximately 09:35 on the morning of 4 August 2023, the Tribunal reviewed the position in respect of the now issued application and whether in light of this, and Dr Hassan's reported continued connection difficulties, it should now adjourn the proceedings.

61. The Tribunal determined that while the application had been issued, there was no evidence if or when it would be considered by the Court or the likely outcome of any consideration. The Tribunal also noted that the application appeared to have been sealed by the Queen's Bench Division, despite that Division having become the King's Bench Division more than six months previously and it had an incorrect date of 3 August 2024. The Tribunal accepted that the identified matters may have been errors on the part of the Court. However, given that the application had not been served on any of the Defendants, the absence of any date for consideration of the application and the Tribunal's view that in any event Mr D has no standing to injunct the Tribunal from proceeding, it determined to continue in the absence of Dr Hassan.

62. Dr Hassan was duly notified by telephone and email that the hearing would reconvene at 10:00 and the Tribunal remained content for him to join remotely by telephone.

63. At 10:02 Dr Hassan contacted the Tribunal to state that his telephone was still not working as he had no replacement. Dr Hassan gave no indication of any steps he had taken to join the hearing from a telephone other than his own. Despite being able to email a number of documents from public locations with an internet connection, it received no written submissions from him in respect of sanction he considered would be appropriate to be imposed on his registration. Further, the Tribunal received no offer of any alternative as to how Dr Hassan proposed to participate in the proceedings. In light of a number of administrative matters, the Tribunal adjourned for lunch at 12.45 and notified Dr Hassan that it would reconvene at 13:45. The Tribunal received no further communication from Dr Hassan following his 10:02 email.

Submissions

64. Mr Rigby, Counsel, on behalf of the GMC, submitted that the appropriate sanction was a matter for the judgement of the Tribunal but that it must be appropriate, proportionate sanction and must meet the overarching objective. He submitted that erasure was the only appropriate and proportionate sanction.

65. Mr Rigby reminded the Tribunal of its findings that Dr Hassan's conduct breached paragraphs 1 and 65 of Good Medical Practice. Mr Rigby submitted that Dr Hassan's conduct was contrary to the fundamental tenets of the profession and was such as would outrage his colleagues and members of the public.

66. Mr Rigby submitted that the following paragraphs of the Sanctions Guidance were engaged and that it supported the GMC's position that erasure was the appropriate sanction:

'108. Erasure may be appropriate even where the doctor does not present a risk to patient safety but where the 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 of a doctor.

109. Any of the following factors being present may indicate erasure is appropriate.
(a) A particularly serious departure from the principles set out in Good Medical Practice where the behaviour is fundamentally incompatible with being a doctor.

...

(g) *Offences involving violence.*

...

(j) *Persistent lack of insight into the seriousness of their actions or the consequences.'*

67. Dr Hassan made no submissions at the sanction stage despite having been afforded a number of opportunities to do so and despite having contacted the Tribunal by email to notify it that the hearing should not proceed.

The Tribunal's Determination on Sanction

68. The Tribunal reminded itself that the decision as to the appropriate sanction, if any, was a matter for it exercising its own judgement. In reaching its decision, the Tribunal has taken into account the SG and borne in mind the over-arching objective. It also bore in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it noted that any sanction imposed may have a punitive effect. It reminded itself that in deciding what sanction, if any, to impose, it should consider the sanctions available, starting with the least restrictive.

69. Throughout its deliberations, the Tribunal had regard to the overarching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promoting and maintaining of proper professional standards and conduct for members of the profession. It applied the principle of proportionality, balancing Dr Hassan's interests with the public interest. The Tribunal also had regard to the case of *Bolton v. Law Society* [1994] 1 WLR 512, in which Sir Thomas Bingham stated that '*the reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is part of the price.'*

70. The Tribunal also had regard to a number of legal principles including the case of *Dey v GMC* [2001] UKPC 44, which reiterated that the object of disciplinary proceedings against a medical practitioner who has been convicted of a criminal offence is twofold i.e. to protect members of the public who may come to him as patients and to maintain the high standards and reputation of the profession. It was not to punish the doctor for a second time for the same offence.

71. The Tribunal had regard to its findings at the facts and impairment stages of the hearing. Before considering what action, if any, to take in respect of Dr Hassan's registration, it first identified what it considered to be the aggravating and mitigating factors in this case.

72. Aggravating Factors:

- Dr Hassan’s offences were committed against two individuals who were discharging public functions and one individual who was opposing his application;
- The offences took place in a court building and in respect of one individual involved violence;
- Dr Hassan has steadfastly continued to refuse to accept his guilt or the fact of his conviction;
- There is a complete absence of any insight by Dr Hassan;
- The Tribunal was satisfied there was a significant risk of repetition of the behaviour if the opportunity arose;
- There has been no expression of regret, remorse or apology from Dr Hassan;
- There is no evidence of any attempt at remediation by Dr Hassan;
- Dr Hassan’s conduct throughout the proceedings have been severely disruptive which has obstructed the fair, economic, timely, efficient and effective disposal of these proceedings;
- Despite Dr Hassan’s previous good character, the Court viewed his conduct as being so serious such that it was satisfied that only an immediate custodial penalty, consecutively served would meet the public interest.

73. Mitigating factors

- The conviction occurred more than four years ago;
- There has been no evidence of further convictions;
- There were no patient safety concerns identified;
- Dr Hassan was of previous good character prior to the conviction;
- Dr Hassan has served his custodial sentence.

74. The Tribunal having balanced the aggravating and mitigating factors and considered each sanction in ascending order of severity, starting with the least restrictive.

No action

75. The Tribunal first considered whether to conclude the case by taking no action. It noted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

76. The Tribunal determined that there were no exceptional circumstances in this case which would justify it taking no action. Further, the Tribunal determined that concluding the case by taking no action would be insufficient to protect the public interest and would not mark the seriousness of Dr Hassan’s underlying conduct or convictions.

Conditions

77. The Tribunal next considered whether to impose conditions on Dr Hassan's registration. It bore in mind that conditions imposed should be appropriate, proportionate, workable and measurable. The Tribunal noted that conditions may be workable where a doctor has insight into their misconduct, that a doctor is likely to comply with conditions, and that a doctor is likely to respond positively to remediation or retraining.

78. The Tribunal concluded that no workable or measurable conditions could be formulated which would address the seriousness of Dr Hassan's conduct leading to his conviction. Further, the Tribunal considered that the imposition of conditions would be insufficient to maintain public confidence in the profession or promote and maintain standards for members of the profession.

Suspension

79. The Tribunal determined that in light of the seriousness of Dr Hassan's conviction action must be taken to maintain public confidence in the profession and to uphold proper standards of its members.

80. In considering whether to impose a period of suspension on Dr Hassan's registration, the Tribunal had regard to paragraphs 91, 92, 93, and 97(a) (e) (f) and (g) of the SG which provides:

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

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

93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or

incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions.

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.*

f *No evidence of repetition of similar behaviour since incident.*

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

81. The Tribunal went on to consider whether to impose a period of suspension on Dr Hassan’s registration. The Tribunal was satisfied that suspending a doctor’s registration for a period of time could be a deterrent effect and could send a message to doctors and the wider public about the standards of behaviour expected of a registered doctor. However, the Tribunal balanced this against Dr Hassan’s steadfast refusal to accept his conviction, his conduct before this Tribunal, its findings as to the absence of any insight, apologies or other expression of regret or remorse. While the Tribunal was satisfied that there were no further convictions against Dr Hassan, the Tribunal remained concerned that there was a significant risk of repetition of the behaviour where Dr Hassan’s version of events were not accepted by those he was seeking to present them to.

82. The Tribunal also had regard to the fact that there was no evidence that Dr Hassan had reflected on his conduct leading to his conviction or made any attempts at remediation. Given the length of time which has elapsed since his conviction without any attempts at remediation, the Tribunal was not satisfied that any attempts at remediation at this stage would be successful.

83. The Tribunal had regard to its findings as to a complete lack of any insight on the part of Dr Hassan, the concerns as to a risk of repetition, the absence of any reflection or attempts at remediation and his conduct before this Tribunal. It was satisfied that the circumstances of Dr Hassan’s case were such that his behaviour was fundamentally incompatible with continued registration.

Erasure

84. Having concluded that the circumstances of Dr Hassan’s case were such that it was fundamentally incompatible with continued registration, the Tribunal nonetheless went on to consider whether the sanction of erasure was appropriate and proportionate and whether the presence of any or all of the mitigating factors identified may indicate that a period of suspension would be appropriate. The Tribunal had regard to the following paragraphs of the SG:

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 fundamentally incompatible with being a doctor.*

...

g *offences involving violence*

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

85. The Tribunal had regard to its findings that Dr Hassan’s conduct leading to his conviction and the conviction itself represented a serious departure from Good Medical Practice. It further noted that his behaviour involved both violence and public order offences. It also had regard to its findings as to his persistent lack of insight, not only since his conviction but in the 10 years since the underlying matters giving rise to his conviction arose.

86. The Tribunal was satisfied there were some mitigating factors in favour of Dr Hassan including that he has already served his custodial sentence. However, given the seriousness of his conduct giving rise to the conviction, the conviction itself and his conduct throughout these proceedings, the Tribunal was not satisfied that a sanction of suspension would sufficiently mark the seriousness with which the Tribunal viewed his conduct, protect the public interest or satisfy the statutory overarching objective. As such, the Tribunal determined that a sanction of erasure was the only appropriate and proportionate sanction. The Tribunal considered that a sanction of erasure would mark the seriousness of the conviction, maintain public confidence in the profession, the regulator and the regulatory process and meet the statutory overarching objective.

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

Determination on Immediate Order - 04/08/2023

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

Submissions

89. Mr Rigby submitted that an immediate order of suspension is necessary in this case in order to protect public confidence in the medical profession and to protect members of the public due to Dr Hassan's lack of insight and the identified risk of repetition in this case. He submitted that the interim order of suspension currently imposed should be revoked.

90. Dr Hassan made no submissions on immediate order or indeed any further contact with the Tribunal.

The Tribunal's Determination

91. In its deliberations, the Tribunal determined that public confidence in the profession would be undermined if an immediate order of suspension were not made. It determined that an immediate order is necessary in order to protect the public and is in the wider public interest, given the nature and gravity of Dr Hassan's behaviour leading to his conviction, the absence of any insight and the assessed ongoing risk of repetition.

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

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

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

95. That concludes the case.

ANNEX A – 15/12/2021

Application from Dr Hassan for the admission of evidence

96. On day one of proceedings Dr Hassan made two applications to the Tribunal; one for additional evidence to be submitted to the Tribunal and the other for the proceedings to be adjourned. The application to submit further evidence to the Tribunal consisted of some 4,601 pages of evidence.

97. The Tribunal’s determination in respect of the application to adjourn proceedings is set out at Annex B.

Submissions from Dr Hassan

98. Dr Hassan submitted that the additional evidence was fundamental to his case as it clearly set out the background and provided evidence to that his conviction was unsafe. Dr Hassan noted that the GMC had sought to provide some of the evidence on his behalf but argued that it had no right to do this and he did not consent to them doing so.

99. Dr Hassan submitted that he had been unfairly and unjustly treated by courts and employment tribunals and that the evidence submitted would satisfy the Tribunal that there has been a miscarriage of justice against him. He submitted that it would be an infringement of his rights if the Tribunal did not accept his documentation.

Submissions from the GMC

100. On behalf of the GMC, Mr Hargan submitted that not only was much of the material repetitious but it was also irrelevant. He stated that the GMC had sought to assist the Tribunal by providing some 931 pages of that material in advance of the hearing. However, he conceded that it would be difficult for the Tribunal to assess what was and was not relevant without first considering the material. He reminded the Tribunal that the onus was on Dr Hassan to satisfy the Tribunal that the evidence was both fair and relevant to the proceedings.

The Tribunal’s approach

101. The Tribunal in making its decision bore in mind Rule 34(1) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 (“the Rules”) which provides that a Tribunal may admit evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a court of law. The Tribunal also noted that the burden of demonstrating that the evidence was fair and relevant rested with Dr Hassan.

Tribunal decision

102. The Tribunal took into account the submissions of both parties and the advice of the Legally Qualified Chair in reaching its decision.

103. The Tribunal noted that Dr Hassan is appearing before the Tribunal unrepresented and his view is that all 4,601 pages of the material he wishes to adduce are relevant to his case. The Tribunal also notes the GMC's observations that in order to determine relevance, the Tribunal will need to consider the material before it. The Tribunal bore in mind that the burden of proving fairness and relevance rested with Dr Hassan and balanced this against the fact that he is unrepresented and the length of time he has been dealing with the matter giving rise to these proceedings. It notes that in Dr Hassan's view the matters dating back to 2013 are inextricably linked to the conviction which gives rise to these proceedings and the subsequent litigation.

104. The Tribunal was not persuaded that all 4,601 pages were relevant to the proceedings, however it was persuaded that at least some of the material could be relevant to matters which Dr Hassan may wish to adduce at some point in the proceedings. That said, the Tribunal was of the view that given the way the material was arranged, the degree of repetition and the fact that some material had already been placed before it by the GMC, seeking to undertake an exercise to discern the material which was relevant and seeking to collate the documents in a way which was coherent would certainly prove to be difficult in the extreme, if not impossible. Further the Tribunal considered that even if such an undertaking were attempted, it would be unlikely that Dr Hassan would agree to any such exercise, given that such an exercise had already been attempted by the GMC and Dr Hassan objected. Finally, the Tribunal considered that the undertaking of such an exercise would be an inefficient and disproportionate use of the hearing time and would no doubt be time intensive and costly.

105. The Tribunal considered the prejudice Dr Hassan may suffer in the event that the material was not admitted, particularly in light of its view that at least some of the material may be relevant. The Tribunal was of the view that if the material was admitted, Dr Hassan would have the opportunity to bring to the Tribunal's attention particular documents, or passages or information he may wish to rely on. In considering all the circumstances of the case, the Tribunal determined that it would be fair, proportionate and in the interests of justice, to admit all 4,601 pages.

106. The Tribunal was of the view that the prejudice to Dr Hassan in not admitting the material outweighed the prejudice in admitting the material and asking Dr Hassan to bring to the Tribunal's attention the matters on which he wishes to rely.

107. The Tribunal therefore granted the application and admitted the evidence.

ANNEX B – 15/12/2021

Application from Dr Hassan to adjourn proceedings

108. On day one of proceedings Dr Hassan made two applications to the Tribunal; one for additional material, which consisted of over 4000 pages of documents to be admitted into evidence and the second for the proceedings to be adjourned. The two applications are inextricably linked, with much of the material not yet admitted to the Tribunal supporting Dr Hassan's application for an adjournment.

109. The Tribunal's determination in respect of the application to admit further evidence is set out at Annex A.

110. In support of Dr Hassan's application to adjourn proceedings, he submitted a 92-page document and requested that his written submissions be supplemented with oral submissions. While Dr Hassan did not specify the length of the adjournment being requested, it appeared that he sought an adjournment, in part, on the basis that there were outstanding legal proceedings to which his conviction (which gives rise to these proceedings) relate. Dr Hassan made his oral submissions to the Tribunal on day two of the proceedings.

Submissions from Dr Hassan

111. Dr Hassan's written and oral submissions were lengthy. However, his submissions in respect of his application to adjourn appeared to fall into four broad categories; there are outstanding legal proceedings relating to the underlying conviction giving rise to these proceedings; the MPTS Case Manager had no power to refuse his application for an adjournment; to continue with the hearing would be a breach of his Article 6 rights under the European Convention on Human Rights ('Convention Rights') and finally the GMC seeking to proceed with this hearing constituted an abuse of process.

112. Dr Hassan submitted that the requirement for the Tribunal to act fairly and justly took primacy over the statutory overarching objective and the Tribunal was under an absolute obligation to adjourn the proceedings until his outstanding legal proceedings had been resolved. Dr Hassan further submitted that under Rule 29 of the GMC Rules, the MPTS Case Manager had no power to consider, and therefore refuse his application for an adjournment.

113. In respect of his Convention Rights claim, Dr Hassan argued that given there were outstanding legal proceedings, to proceed with the hearing would breach his rights. Dr Hassan also submitted that the GMC was abusing its power by bringing proceedings against him when it had failed to bring proceedings against or investigate the doctors against whom he had made complaints.

Submissions from the GMC

114. On behalf of the GMC, Mr Hargan submitted that the Tribunal should refuse Dr Hassan's application to adjourn proceedings and that the burden of satisfying the Tribunal that an adjournment should be granted rested with Dr Hassan. He submitted that the GMC had previously agreed to an adjournment in circumstances where Dr Hassan's appeal against his conviction was outstanding, however, that appeal had now been heard and dismissed. Mr Hargan brought to the attention of the Tribunal and asked it to bear in mind the fact that a General Civil Restraint Order ('GCRO') had been imposed on Dr Hassan, and although Dr Hassan had applied to set that aside, the matter was awaiting allocation to a judge.

115. Mr Hargan submitted that it was in the public interest and the interests of justice for the matter to be heard as it had been ongoing for quite some time. He stated there were no material changes to Dr Hassan's circumstances. Mr Hargan also submitted that it was not appropriate to adjourn every fitness to practise hearing on the basis that there may be a challenge to the underlying matters giving rise to the hearing. In Dr Hassan's case, he submitted that proceeding with the hearing at this stage would not disadvantage Dr Hassan as in the event that his underlying conviction was overturned any sanction imposed by the Tribunal would fall away.

116. Mr Hargan submitted that the GMC endorse the decision and reasoning adopted by the MPTS Case Manager in its decision on 8 December 2021 to refuse Dr Hassan's application for an adjournment of these proceedings. The reasoning in that decision included that public confidence in the profession would be undermined if the hearing did not go ahead, there was no proper or reasonable basis for granting an adjournment and that a postponement of the proceedings was not proportionate in the circumstances.

The Tribunal's approach

117. In determining Dr Hassan's application whether or not to adjourn the proceedings, the Tribunal bore in mind that the decision as to whether or not a hearing should be postponed is a matter for the exercise of its discretion, and that such discretion is to be exercised with great care. It noted that in making its decision it must undertake a balancing exercise taking into account in particular the potential for prejudice to the disciplined person in not going ahead, the potential for prejudice to the proceedings in not going ahead and the

desirability – other things being equal - of the timely disposal of the proceedings. It also bore in mind the statutory overarching objective and the public interest which includes a hearing taking place within a reasonable time of the events to which it relates.

Tribunal decision

118. The Tribunal took into account the submissions of both parties in reaching its decision and considered each ground of Dr Hassan’s request.

Outstanding Legal Proceedings

119. On 7 August 2019 Dr Hassan was convicted of one count of assault by beating contrary to Section 39 of the Criminal Justice Act 1988 and two public order offences contrary to Section 4(1) and (4) of the Public Order Act 1986. Dr Hassan was sentenced to 18 weeks in prison as a result of his conviction. Dr Hassan appealed his conviction and that appeal was dismissed on 19 April 2021. Dr Hassan has brought at least two judicial review claims in the Administrative Court against his conviction, at least two judicial review claims against the GMC in respect of its decision to bring proceedings against him and at least one judicial review claim in respect of the decision of the Interim Orders Tribunal. Dr Hassan has also made a further appeal against his criminal conviction. The status of that further appeal is unknown to the Tribunal. All of Dr Hassan’s judicial review claims have been dismissed and at least three have been certified as totally without merit. In addition to the claims made in the Administrative Court, Dr Hassan has sought permission to appeal to the Court of Appeal on at least four occasions. Two of his applications for permission to appeal have been refused and certified as totally without merit and as at the date of the hearing, two matters remain outstanding.

120. As a result of at least three of his judicial review claims being certified as totally without merit, on 14 October 2021 a judge of the High Court imposed a GCRO against Dr Hassan. The effect of the GCRO is that Dr Hassan is restrained (prohibited) from issuing any claim or making any application in the High Court or the County Court without the permission of the judge who imposed the GCRO. The Tribunal notes that Dr Hassan has submitted an application to “*set aside*” the GCRO. It is not clear if by “*set aside*” Dr Hassan is appealing the imposition of GCRO or whether he is seeking to have it discharged. If Dr Hassan was seeking to have the GCRO discharged he would first need to seek the permission of the judge who imposed it. There is no evidence before the Tribunal that such permission has been sought or granted. In any event, as at the date of the hearing, any application by Dr Hassan in relation to the GCRO had not yet been allocated to a judge for consideration.

121. Dr Hassan has also submitted an application to the European Court of Human Rights dated 18 June 2021 which appears to request that the Court consider his conviction, referral

to the GMC and the GMC's referral of the matter to the MPTS. Dr Hassan had provided no evidence to the Tribunal that the European Court of Human Rights had acknowledged his application or that a hearing date had been set to determine this application.

122. While the Tribunal noted that Dr Hassan had two outstanding matters with the Court of Appeal which had not been determined at commencement of these proceedings, neither of those decisions relate to the underlying conviction giving rise to these proceedings. In any event, there was no evidence before the Tribunal that permission to appeal had been granted in either case and there was no evidence as to when either of those cases would be considered by a judge. The Tribunal also noted Dr Hassan's outstanding application to set aside the GCRO but again noted that this matter had not yet been allocated to a judge. Finally, the Tribunal considered Dr Hassan's outstanding application before the European Courts and the fact that again there was no evidence that this application had even been accepted by the European Court and there was no information as to when there was likely to be a decision.

123. While the Tribunal was satisfied there were outstanding legal proceedings, there was no evidence that a date had been set for the outstanding matters to be heard or that a decision was likely to be pronounced shortly. The Tribunal balanced the potential disadvantage to Dr Hassan in this hearing proceeding against the statutory overarching objective and the public interest in matters being heard within a short time of matters being referred to the Tribunal. The Tribunal also noted that the potential disadvantage to Dr Hassan in having this hearing proceeding and the potential for a sanction to be imposed was not irremediable and in the event his conviction was overturned, the sanction would fall away. The possibility of any potential disadvantage being capable of being remedied, coupled with the absence of any evidence of a date being set for the outstanding matters to be heard, or that a decision was imminent, meant the Tribunal was not satisfied that it would be proportionate, or in the public interest, for the proceedings to be adjourned on the basis of the outstanding legal proceedings.

The MPTS Case Manager acted beyond their powers

124. The Tribunal considered Dr Hassan's submissions in this respect but do not accept them. The Tribunal noted that Dr Hassan appeared to be proceeding on the basis of a misunderstanding of the GMC's Fitness to Practise Rules currently in force. While Dr Hassan is correct in identifying that the legislation.gov.uk website states that the status of the document "*is the original version (as it was originally made)*" this does not mean that this is the version of the Rules which is currently in force. The Rules have been amended on a number of occasions including in 2013, 2014, 2015 and most recently in November 2017, being laid before Parliament on 2 November 2017. The version of the Rules currently in force,

by virtue of Section 29(1)(b) expressly confers on a Case Manager either of their own motion or upon application of a party to the proceedings, the power to postpone the hearing. Even if Dr Hassan were right, which the Tribunal does not consider to be the case, the Tribunal has the power to determine the application as it is doing by way of this determination.

125. In balancing all of the relevant factors including the potential disadvantage to Dr Hassan and the public interest, the Tribunal is not satisfied that this ground provides an appropriate or proportionate reason for the hearing to be adjourned.

Breach of his Article 6 European Convention Rights ('Convention Rights')

126. The Tribunal accepts that these proceedings engage Dr Hassan's Article 6(1) Convention Rights. Those rights confer on Dr Hassan the right to a fair hearing and public hearing in a reasonable time by an independent and impartial tribunal established by law. Dr Hassan has submitted no evidence that either individually or collectively any of the Article 6(1) rights have been infringed. The role of the MPTS is enshrined by law, it has assembled an impartial Tribunal to consider his case, the hearing is to be held in public and there are circumstances in which parts of the hearing can be heard in private. The Tribunal has been convened in a reasonable time i.e. within two and a half years of his conviction and eight months of his appeal being dismissed. Even if it could be argued that the time it has taken for the matter to come before a Tribunal was disproportionate, the Tribunal notes that Dr Hassan's appeal was not heard until April 2021. The Tribunal further notes that Dr Hassan's case has previously been listed in August 2021 but that was postponed in light of voluminous documents served by Dr Hassan and circumstances related to the COVID-19 pandemic.

127. The Tribunal also does not accept that Dr Hassan's outstanding legal proceedings necessarily mean that these proceedings cannot go ahead and must be adjourned. For the reasons set out at paragraphs 12 to 16 above, the Tribunal does not accept that the outstanding legal proceedings give rise to these proceedings being adjourned. In light of this, the Tribunal does not consider that this ground discloses an arguable reason why these proceedings should be adjourned.

The GMC pursuing these proceedings in an abuse of process

128. The Tribunal considered Dr Hassan's submissions in this respect but does not accept them. The Tribunal notes that the GMC is the body, charged by Parliament with regulating the medical profession and it is for it, subject to general public law principles of fairness, natural justice and procedural rigour, to determine how it conducts fitness to practise investigations. The Tribunal notes that the GMC, as a public body is amendable to judicial review claims and further notes that a number of claims have already been brought against the GMC by Dr Hassan, some of which have been dismissed as totally without merit. Save for

arguing about the basis of his conviction, Dr Hassan has not drawn to the Tribunal's attention any evidence in the volume of documents he has submitted that the GMC's decision to proceed with these proceedings makes it impossible for him to have a fair hearing or that these proceedings would offend the sense of natural justice or propriety in the particular circumstances of the case.

129. On the contrary, the Tribunal considers that with Dr Hassan being convicted of criminal offences and those criminal offences not being overturned on appeal, that it was the GMC's duty, in line with the statutory overarching objective, for these proceedings to be heard by the Tribunal. The Tribunal does not consider that this ground discloses an arguable reason for not proceeding with the hearing.

130. The Tribunal therefore determined that either individually or taken together, the grounds advanced by Dr Hassan were insufficient for it to accede to his request and adjourn the proceedings. The Tribunal considered that that the public interest in maintaining public confidence in the profession and for matters to be dealt with within a short period of time fell in favour of the proceedings going ahead. The Tribunal considered that any potential disadvantage to Dr Hassan was not irremediable nor would it be extremely difficult to remedy. Further the Tribunal considered that it would not be appropriate, proportionate, in the public interest or in the interests of justice to adjourn these proceedings. Accordingly, the Tribunal determined to refuse the application to adjourn proceedings.

ANNEX C – 16/12/2021

Application from Dr Hassan for the Tribunal to recuse itself

Background

131. On day four of proceedings, following the Tribunal's announcement of its decisions in relation to Dr Hassan's applications to admit further evidence which was granted, and to adjourn proceedings, which was refused, Dr Hassan made an application for the Tribunal to recuse itself on the basis that it was biased and breached his Article 6 rights pursuant to the European Convention on Human Rights ('Convention Rights').

Submissions from Dr Hassan

132. Dr Hassan submitted that the Tribunal is biased, is not impartial and the proceedings are unfair. He submitted that the Tribunal had refused to consider his written submissions in relation to comments about the legal advice and on this basis, it had already made up its mind in relation to adjourning proceedings. He further submitted that the fact that the Tribunal had sight of the bundle submitted by the GMC, which he had not received, meant

that the Tribunal was swayed and was determined to act against him. He submitted that because the Tribunal is biased, the proceedings would be unfair, and that the Tribunal should recuse itself accordingly.

Submissions from the GMC

133. On behalf of the GMC, Mr Hargan submitted that there is absolutely nothing to suggest that the Tribunal is unfair or unjust. He noted it is in fact quite the opposite. He observed that Dr Hassan had served 4600 plus pages of evidence on the Tribunal on day one of the hearing, and the Tribunal, fairly and in the doctor's interest, admitted this documentation. Mr Hargan observed that the Tribunal has gone to great effort and given Dr Hassan, every opportunity to present his case.

134. Mr Hargan submitted that Dr Hassan's application was a further attempt, as was his serving of large volumes of material, to disrupt and frustrate the proceedings.

The Tribunal's approach

135. In making its decision on whether it should recuse itself, the Tribunal had regard to the case of *Porter v Magill [2002] 2 AC 357* which set out the test for bias and is

'whether a fair minded and informed observer, having considered the facts, would conclude that the tribunal was biased.'

Tribunal decision

136. The Tribunal took into account the submissions of both parties and the advice of the Legally Qualified Chair in reaching its decision.

137. The Tribunal considered that its approach in the matter to date demonstrated that it has taken a number of steps to ensure fairness to the doctor in the course of these proceedings, particularly in light of the fact that he is unrepresented. It has taken steps to admit evidence submitted by Dr Hassan, to avoid prejudice to him and sought to ensure that the bundle of documents being relied on by the GMC was provided to him. It has also ensured that he has been provided with an opportunity to make both written and oral submissions on matters which have needed to be determined to date.

138. The Tribunal has set out in its determination on Dr Hassan's application to adjourn the hearing, that it does not consider that these proceedings breach Dr Hassan's Article 6 Convention rights. The members of this Tribunal have been properly empanelled in accordance with the MPTS procedure and the Tribunal is of the view that it has taken all

reasonable steps to ensure that the proceedings are fair, bearing in mind that Dr Hassan is self-represented.

139. In all the circumstances, the Tribunal considered that a fair minded and informed observer, who had considered the facts, would conclude that the Tribunal was not biased.

140. The Tribunal therefore refused Dr Hassan’s application.

ANNEX D – 16/12/2021

Application by the GMC to admit further evidence

141. On day one of proceedings the GMC made an application under Rule 34(1) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 (“the Rules”) to admit further evidence before the Tribunal. The evidence consisted of the witness statements of two people involved in the incident which gave rise to Dr Hassan’s conviction in August 2019 and an exhibit referred to in one of the witness statements as well as the written judgment of the judge in Dr Hassan’s appeal. The Tribunal did not determine this matter until day four of the proceedings, principally as Dr Hassan was unable to consider the documents until day two of the proceedings.

Submissions from the GMC

142. Mr Hargan made an application that submitted that the documents were both fair and relevant to the proceedings. He stated that the appeal judgment had only become available on Monday morning and set out the background to Dr Hassan’s case, as well as the prosecution and defence case, before making its ruling. He stated that the judgment in particular was fair to the doctor as it dealt with competing evidence and was one of the best documents dealing with the doctor’s case.

143. Mr Hargan submitted that admitting the material would be fair, appropriate and in the interests of justice.

Submissions from Dr Hassan

144. Dr Hassan in his written submissions stated that the Tribunal should not admit the evidence as that evidence remained the subject of outstanding legal proceedings. He further submitted that the evidence demonstrated perjury on the part of the witness evidence being relied on.

The Tribunal's approach

145. The Tribunal in making its decision bore in mind Rule 34(1) of the Rules which provides that a Tribunal may admit evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a court of law. The Tribunal also noted that the burden of demonstrating that the evidence was fair and relevant rested with the GMC.

Tribunal decision

146. The Tribunal took into account the submissions of both parties.

147. The Tribunal determined that the witness statements and the judgments may provide relevant and helpful contextual and background information at subsequent stages of the hearing. It noted that with respect to the judgment it was only available to the GMC on the morning of the hearing and therefore could not have been provided earlier. That the documents were the subject of outstanding legal proceedings did not, of itself, render any admission to the Tribunal unfair. As the Tribunal observed in its determination on adjourning proceedings, the underlying conviction giving rise to this hearing has already been appealed and the written judgment in that appeal is one of the documents sought to be admitted.

148. The Tribunal was of the view that the documents, while not necessarily relevant to the facts stage of the hearing, could be relevant at a later point. The Tribunal considers that the prejudice to the GMC and the doctor in not admitting the evidence would outweigh any prejudice in admitting the documents. In light of this, the Tribunal considered that the documents in question were relevant to the proceedings and it was fair in the circumstances for them to be admitted.

149. Accordingly, the Tribunal granted the GMC's application and admitted the evidence.

ANNEX E – 17/12/2021

Application from Dr Hassan for Mr E to give evidence to the Tribunal

150. On day five of proceedings Dr Hassan made an application to the Tribunal for his brother, Mr E, to give evidence at the fact-finding stage under Rule 34(1) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 ("the Rules").

Submissions from Dr Hassan

151. Dr Hassan submitted that Mr E would be able to provide evidence to the Tribunal that he is not the person to which the certificate of conviction relates. Dr Hassan submitted that he relied on several paragraphs in the appeal judgment which demonstrated that Ms C was mistaken in her evidence as to who had carried out the offences relating to her. Dr Hassan submitted that Mr E would be able to give evidence in support of this.

Submissions from the GMC

152. On behalf of the GMC, Mr Hargan highlighted to the Tribunal Rule 33(2) of the Rules which provides that *“a person who gives evidence at a hearing shall not be entitled to represent or accompany the practitioner at the hearing”*. He submitted that Mr E had accompanied Dr Hassan throughout the hearing. Mr Hargan also stated that Dr Hassan had indicated to the Tribunal on day four of the proceedings that he needed his brother for support and it was the requirement for this support which contributed to a delayed start on day five of the proceedings.

153. In any event, Mr Hargan submitted that Dr Hassan’s evidence had in the hearing to date related to the fact that he was wrongly convicted and there was nothing to indicate that Mr E would be able to provide evidence that Dr Hassan was not the person to which the certificate of conviction related. In light of this, he submitted that the Tribunal should refuse Dr Hassan’s application.

The Tribunal’s approach

154. The Tribunal in making its decision bore in mind Rules 34(1) and 33(2) of the Rules.

Tribunal decision

155. The Tribunal took into account the submissions of both parties and the earlier advice of the Legally Qualified Chair in respect of the admission of evidence in reaching its decision.

156. The Tribunal noted that it has the power to admit any evidence that it considers fair and reasonable even if that evidence would not be admissible in a court of law. The Tribunal considered however that this had to be read in conjunction with Rule 33(2) which prohibits those giving evidence at a hearing being able to accompany the practitioner. The Tribunal is mindful that Dr Hassan is unrepresented and explored whether he had any reasons why that rule should be set aside by the Tribunal. Dr Hassan’s submission was that he was unaware of the provision.

157. The Tribunal considers that Dr Hassan is a highly intelligent and capable man, who has cited the Rules and properly applied them on many occasions.

158. While the Tribunal has no express power to disapply Rule 33(2) it nonetheless explored the possibility of disapplying the rule in order to remedy any potential unfairness to Dr Hassan in light of the fact that he is representing himself. Even if it could be argued that the Tribunal had an implied power to be able to disapply Rule 33(2), the submission that Dr Hassan was unaware of the Rule did not provide the Tribunal with a sufficient reason to be able to exercise any such implied power that it may have.

159. In any event, the Tribunal is not satisfied that Mr E would be able to provide any evidence that Dr Hassan is not the person named in the certificate of conviction. Dr Hassan's position throughout these proceedings is that he is not guilty of the offence of which he has been convicted. His position has not been that he is not the Mohamed Hassan named in the certificate of conviction. There is no other information from Dr Hassan as to any evidence Mr E would be able to provide ascertaining that Dr Hassan was not the person named in the certificate of conviction.

160. In light of Mr E's previous involvement in the proceedings in providing support to Dr Hassan and the fact that the Tribunal is not satisfied that Mr E would be able to provide evidence that Dr Hassan is not the person to which the conviction relates, the Tribunal concluded that admitting evidence from Mr E would neither be fair nor relevant to the matters before it.

161. The Tribunal therefore refuses Dr Hassan's application for Mr E to give evidence at these proceedings.

ANNEX F – 21/12/2022

Application to Adjourn and to Admit Further Evidence

162. On the sixth day of the hearing, Dr Hassan made an application for the hearing to adjourn under Rule 29(2) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'), which states:

"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."

163. There was no formal application either by the GMC or Dr Hassan to admit further evidence. Given the information provided to the Tribunal at the outset on Day 6 of the

hearing, the Tribunal determined that it should consider whether the additional information should be admitted into evidence pursuant to Rule 34(1) of the Rules which state:

“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.”

The Information

164. On behalf of the GMC, the Tribunal received copies of two orders from the High Court dated 14 October 2021 (‘the 14 October Order’) and 15 December 2021 (‘the 15 December Order’). The 15 December Order refused Dr Hassan’s application to challenge the outcome of the appeal against his conviction and refused a challenge to Westminster Magistrates’ Court not to stay the proceedings against him on the grounds that proceedings amounted to an abuse of process. The 14 October Order also issued a General Civil Restraint Order (‘GCRO’) against Dr Hassan which prohibits him from making any further applications to the Court unless he is granted permission by the Court to make such applications.

165. The 15 December Order refused Dr Hassan’s application to set aside the GCRO made on 14 October and further made Dr Hassan the subject of a notification of restricted communication which means that any communication by him to the Court would be ignored unless made by way of formal application which requires a response from the Court.

166. Dr Hassan submitted to the Tribunal 12 separate exhibits totalling in excess of 9000 pages which he submitted were relevant to his case and his application to adjourn.

Submissions

167. Dr Hassan submitted that the hearing should be adjourned in light of his outstanding complaints to the European Court of Human Rights (‘ECHR’), Independent Office for Police Conduct (‘IOPC’) and the European Commission (‘EC’), which he said was new information before the Tribunal. He submitted that the evidence that he has submitted was information provided to one or more of these bodies and that the proceedings should be adjourned until there had been a substantive decision which he contended would uphold his complaints. Dr Hassan further submitted that the Orders of the High Court were of no effect given that they were the subject of complaints to the European Court of Human Rights and the European Commission. Therefore, he was of the view that the hearing should be adjourned to allow for these considerations to be concluded.

168. Mr Garside, on behalf of the GMC, opposed the application. Mr Garside stated that the evidence submitted by Dr Hassan was wholly irrelevant to the matters the Tribunal was

required to determine. Mr Garside submitted that all appeals and court cases Dr Hassan had presented were in relation to separate matters and there was no good reason for this hearing to be adjourned.

The Tribunal's determination

Admission of Further Evidence

169. In respect of the Orders provided by the GMC, the Tribunal was satisfied that they were both fair and relevant to the case before them. The Tribunal noted that both orders dealt with applications in relation to Dr Hassan's conviction which was the matter before the Tribunal to determine. As such, the Tribunal determined that it was fair and relevant to admit both Orders into evidence.

170. In respect of the documents submitted by Dr Hassan, the Tribunal noted that the volume of documents exceeded 9000 pages with material going back to his Employment Tribunal claim against the Trust in 2013. The Tribunal further noted that much of the documents had either been previously admitted into evidence by the Tribunal or were not relevant to the matters it was required to determine i.e. whether Dr Hassan's fitness to practise was impaired by reason of his conviction.

171. The Tribunal determined not to admit Dr Hassan's documents into evidence as it was not satisfied that it was fair and relevant to the case before it.

Application to Adjourn

172. In determining whether to adjourn the hearing, the Tribunal noted that the application was principally based on outstanding applications to ECHR, EC and IOPC. The Tribunal had regard to the fact that Dr Hassan's application to the ECHR was made in 2018 and thus has been outstanding for approximately four years. The Tribunal noted Dr Hassan's application to the EC and IOPC were more recent, with the IOPC complaint being filed in November 2022. The Tribunal had regard to Dr Hassan's submission that the EC has requested further information in order to consider his application. Notwithstanding this, there was no information before the Tribunal as to when the consideration of his complaint would commence or conclude.

173. In making its determination on the application to adjourn, the Tribunal had regard to the principles set out by the Court in *General Medical Council v Adeogba [2016] EWCA Civ 162* and in particular the need to balance the interests of Dr Hassan against the wider public interest, the statutory overarching objective and the requirement to consider the fair, economical, expeditious and efficient disposal of proceedings.

174. The Tribunal noted that these proceedings commenced well over 12 months ago and have already taken five days of Tribunal time without it being able to conclude the facts stage of the proceedings. The Tribunal also had regard to the fact that there had been no substantive change of circumstances in favour of Dr Hassan. Rather and to the contrary some of his outstanding litigation matters have now been determined, dismissed and certified as wholly without merit. In addition he has been made the subject of a further civil restraint order as well a restriction of communication order. The Tribunal was of the view that the public interest in seeking to conclude the case outweighed the possibility that other bodies may rule in his favour. The Tribunal also had regard to the fact that further delay would incur additional time and cost to both the GMC and MPTS, and there were insufficient grounds to justify such additional costs being incurred.

175. In light of the above the Tribunal refused Dr Hassan's application to adjourn the proceedings.

ANNEX G – 15/02/2023

176. On day eight of the proceedings, the Tribunal was due to reconvene to hear Dr Hassan's submissions on whether his fitness to practise was impaired by reason of his conviction. Before considering any submissions on impairment, Dr Hassan made five preliminary applications to the Tribunal. The applications were as follows:

- i. The validity of the Tribunal and its ability to properly hear his case;
- ii. XXX
- iii. To adjourn the proceedings;
- iv. For the entire Tribunal to recuse itself as it was biased; and
- v. Questions on the way the Tribunal members were chosen to be empanelled on this case.

177. The Tribunal heard the applications set out at (i) to (iii). The Tribunal heard submissions from Dr Hassan and Mr Garside, KC on behalf of the GMC, in respect of each application. At the conclusion of the submission of the parties, the Legally Qualified Chair (the LQC) gave legal advice as to how each issue should be approached and the matters which the Tribunal should take into account when making its decision.

Application on the Validity of the Tribunal

178. Dr Hassan submitted that the Tribunal was not a valid one on the basis that XXX. He submitted that it was not possible for the Tribunal to be and remain impartial particularly when considering the test set out in *Porter v Magill* [2002] 2 A.C. 357 i.e., whether a fair minded and informed observer, having considered the given facts, would conclude there was a real possibility that the tribunal was biased. He submitted that an independent and fair-minded observer would note that the Tribunal had relied on false allegations and false statements made about him in making its determination. He also submitted that the conviction was based on those false allegations and statements. Dr Hassan stated there were serious questions about the Tribunal continuing with these proceedings and its continuing constituted a breach of his rights pursuant to Article 6 of the European Convention on Human Rights ('Article 6 Rights'). Dr Hassan further submitted that the Tribunal was not validly constituted or established by law and therefore it should not proceed to determine his case.

179. Mr Garside reminded the Tribunal that the information submitted by Dr Hassan was not relevant to its determination on impairment. He submitted that XXX did not mean that the Tribunal was not properly constituted and there was no suggestion that the Tribunal had behaved improperly. He stated there were no XXX and that the Tribunal was entitled and should proceed in the circumstances. He accepted the relevant test was the one set out in *Porter v Magill* but stated that in determining whether the Tribunal should continue, regard needed to be had to the public interest in disposing of these proceedings expeditiously. Mr Garside submitted that no fair-minded observer would consider that this Tribunal was biased and that there was no suggestion that the Tribunal was invalid. He further submitted that this Tribunal had been chosen in the same way that all other Tribunals were empanelled and there was no evidence to call the empanelment into question.

The Tribunal's Decision on the Validity of the Tribunal

180. The Tribunal noted the submissions made by Dr Hassan and Mr Garside. It was of the view that it had very limited, if any jurisdiction to consider whether it was properly empanelled. The Tribunal noted that the legal basis for empanelling was set out in the General Medical Council's (Constitution of Panels, Tribunals and Investigation Committee) Rules Order of Council 2015 ('the Constitution of Panel Rules'). It considered that the starting point should be that Tribunals are properly empanelled by the MPTS. It further considered that save for exceptional circumstances such as there being evidence that a member of the Tribunal could not have been properly empanelled and should not have been so, the validity of the Tribunal must stand. In any event, the Tribunal noted paragraph 8 of the Constitution of Panel Rules which provide that the "*validity of any proceedings of a Panel, a Tribunal or the Committee, is not to be affected by any defect in the appointment of a panellist or Tribunal member*".

181. The Tribunal did not accept XXX meant the Tribunal was not properly constituted. The Tribunal also did not accept that the current constitution of the Tribunal was such that it interfered with Dr Hassan's Article 6 Rights to a fair hearing or prevented him from having a fair hearing. Having regard to paragraph 8 of the Constitution of Panel Rules and the absence of any evidence that the members of the Tribunal were not entitled to be empanelled to hear Dr Hassan's case, the Tribunal did not accept it was not validly constituted.

182. Accordingly, it refused Dr Hassan's application that the Tribunal was invalidly constituted or otherwise invalid.

Application for LQC to recuse herself XXX

183. In addition to his submissions on the validity of the Tribunal, Dr Hassan submitted that XXX inevitably meant that she needed to recuse herself from hearing his case. Dr Hassan submitted that XXX independent professional witness ('the Witness') and the Tribunal, in its determination on the facts, had made false findings against that Witness. Dr Hassan referred to a number of passages in the Tribunal's determination on the facts which he contended highlighted those false findings. Dr Hassan submitted that the Tribunal also knowingly made false statements against him in its determination particularly in circumstances where there was evidence before it as to the falsity of those statements. By way of example, Dr Hassan referred to the Tribunal's reference to the candidates who were appointed by the Trust in 2013 as the "*successful candidates*" was knowingly a false statement. Dr Hassan was of the view that since the candidates failed to meet the statutory criteria for appointment, they should not have been appointed and therefore they should not be referred to as successful. Dr Hassan further stated that the Tribunal had placed barriers in his way by relying on false evidence and allegations and as such it was unable to fulfil its objective in proceeding to hear the matter.

184. Dr Hassan also stated that the LQC should not continue in the role and did not have power to act XXX. He further submitted that the LQC continuing in the role breached his Article 6 Rights to a fair hearing. As such, he submitted that the LQC should recuse herself.

185. Mr Garside opposed Dr Hassan's application for the LQC to recuse herself. He relied on the submissions he made when dealing with Dr Hassan's application in respect of the validity of the Tribunal. He added that XXX was irrelevant and that in any event the Witness XXX had failed to declare that he was Dr Hassan's brother. Mr Garside submitted that if XXX were to be accepted as grounds for recusal, this would adversely impact the conduct of proceedings and the ability for determinations to be made. Mr Garside stated that there was no hint of bias in the Tribunal, and its decision on the facts was based on the evidence before it. Mr

Garside stated that an independent fair minded observer bearing in mind the facts would not conclude there was a real possibility that the Tribunal was biased. He stated that the fact that the Tribunal had made findings against Dr Hassan was not evidence of itself that it was biased or that the LQC should recuse herself.

The Tribunal's Decision on the LQC's recusal

186. Before making its determination on a recusal, the LQC put on the record XXX.

187. The Tribunal in making its determination was of the view that there was a distinction between XXX. It had regard to the fact that the LQC XXX and that save for the acknowledgment letter to the Witness, there was no evidence XXX. The Tribunal did not accept Dr Hassan's submissions that XXX. The Tribunal did not accept Dr Hassan's submission that the determination on the facts made findings against the Witness, not least as no such findings could have been made.

188. The Tribunal accepted Mr Garside's submission XXX did not necessarily mean that that individual had to recuse themselves from the Tribunal. It accepted the view that this would have a detrimental effect including in many instances the inevitable consequence of frustrating proceedings. However, it was of the view that any decision for one or more members of a Tribunal to recuse itself would be fact and case specific.

189. In turning to the determination in this case, both the LQC individually and the Tribunal as a whole was of the view that XXX did not give rise to grounds for the LQC to recuse herself from this case. The LQC and Tribunal had regard to XXX. The Tribunal also had regard to the fact that the LQC was not the sole decision maker in the Tribunal and while it was her role to provide advice on legal matters, the Tribunal as a whole was entitled to disregard that advice in coming to a majority decision. The Tribunal was satisfied that a fair minded observer with full knowledge of the facts of this case would not be of the view that there was a real possibility of bias in the Tribunal's decision making for the remainder of this case. The Tribunal also considered whether the continuation of the LQC would interfere with Dr Hassan's Article 6 Rights. For the reasons set out above, the Tribunal was not satisfied that the current LQC continuing to chair these proceedings represented an interference with Dr Hassan's Article 6 Rights.

190. Accordingly, the Tribunal refused Dr Hassan's application for the LQC to recuse herself.

Application for the hearing to Adjourn

191. Dr Hassan submitted that the proceedings should be adjourned on the basis that he had made a referral to the Criminal Cases Review Commission (CCRC). He stated that the

basis of his referral was his conviction at Westminster Magistrates' Court and Snaresbrook Crown Court's decision to uphold his conviction. He also stated that he had asked the CCRC to review Snaresbrook Crown Court's failure to properly apply the Criminal Procedure Rules and relevant section of the Senior Courts Act 1981. Dr Hassan stated that in light of the outstanding consideration of his case by the CCRC it was incumbent on the Tribunal to adjourn proceedings pending that determination.

192. Dr Hassan also referred to his outstanding complaints to the European Court of Human Rights ('ECHR'), the European Commission ('EC'), the Independent Office for Police Complaints ('IOPC') and the Judicial Conduct Investigations Office (JCIO). He stated that it was incumbent on the Tribunal to respect the decisions of these bodies and this could not be done until the outcome in each case was known.

193. Mr Garside objected to Dr Hassan's application to adjourn. He stated that the application to the CCRC was undated and appeared to be relatively recent. He submitted that in any event such an application could not form the basis on which to adjourn the hearing. He submitted there was no evidence that there was any merit to the application and even if there was, there was no guarantee that the case would be referred to the Court of Appeal. Mr Garside stated that even if the matter was referred to the Court of Appeal, there was no evidence that the conviction would be quashed. Mr Garside reminded the Tribunal that the European Court had no jurisdiction to overturn a criminal conviction in the United Kingdom. He further submitted that Dr Hassan's application to adjourn was no more than an attempt to frustrate the fitness to practise process and should be refused.

The Tribunal's Decision on Adjourning

194. In considering Dr Hassan's submissions that the matter should be adjourned based on his outstanding applications to the ECHR, EC and IOPC the Tribunal had regard to the fact that it had previously refused to adjourn the proceedings in respect of the ECHR on 15 December 2021 and 21 December 2022 and in respect of the EC and IOPC on 21 December 2022. The Tribunal's full determination in these respects can be found at Annexes B and F. The Tribunal noted that no new information had been provided by Dr Hassan as to a consideration or determination by any of these bodies. As such, the Tribunal was satisfied that it continued to be appropriate to refuse to adjourn proceedings on the basis of outstanding complaints to these bodies.

195. In considering Dr Hassan's application to the CCRC, the Tribunal noted that the application was undated and despite a further voluminous set of documents submitted by Dr Hassan, there was no evidence that the CCRC had acknowledged Dr Hassan's application. The Tribunal further noted there was no evidence that the application was currently under

consideration, any detail on when it was likely to be considered, whether the CCRC was of the view there was any merit to the application and whether it was likely to be referred to the Court of Appeal. The Tribunal had regard to the fact even if Dr Hassan's case was referred to the Court of Appeal by the CCRC, this would not necessarily result in a finding that Dr Hassan's conviction was unsafe and should be quashed. The Tribunal also had regard to the fact that if Dr Hassan's conviction was quashed by the Court of Appeal or any other court, any decision taken by the Tribunal on the basis of the conviction would be void.

196. The Tribunal considered Dr Hassan's submission that the proceedings should be adjourned on the basis of the complaint to the JCIO. The Tribunal noted that even if any complaint about his appeal judge's conduct was upheld, that would not necessarily call into question the safety of his conviction or result in his conviction being quashed.

197. In making its determination, the Tribunal balanced Dr Hassan's rights against the wider public interest, the statutory overarching objective and the requirement to consider the fair, economical, expeditious and efficient disposal of proceedings. The Tribunal noted that Dr Hassan's conviction was in February of 2019, his appeal was determined in April 2021, these proceedings commenced in December 2021, reconvened in December 2022 and at the date of this determination the Tribunal had yet to hear Dr Hassan's submissions on whether his fitness to practise is impaired by reason of his conviction.

198. For the reasons set out above, the Tribunal was of the view that either individually and collectively none of Dr Hassan's outstanding complaints to court or other public bodies represented a sufficient reason for the proceedings to be adjourned. The Tribunal was satisfied that an adjournment was not in the public interest, would fail to meet the overarching objective and would incur additional time, cost and other resources which would be disproportionate given the nature of the case, the powers of the Tribunal and the issues to be determined.

199. Accordingly, the Tribunal refused Dr Hassan's application to adjourn the proceedings.

ANNEX H – 15/02/2023

Application for the Tribunal to recuse itself

200. On day four of proceedings, 16 December 2021, Dr Hassan made an application for the Tribunal to recuse itself on the basis that it was biased and breached his Article 6 rights

pursuant to the European Convention on Human Rights ('Convention Rights'). The Tribunal refused this application.

201. Today, day nine of the hearing, Dr Hassan made a further application for the Tribunal to recuse itself on the basis that it was biased and was incapable of being independent or impartial.

Submissions

202. Dr Hassan reiterated his submissions that the Tribunal's determination on the facts relied on false allegations and statements which were part of a criminal conspiracy to frame him and conceal his attempted murder. He stated that the provisions of the Medical Act 1983 (The 1983 Act) and European legislation and case law guaranteed him a right to a fair hearing and that was not possible in the circumstances. He stated that the Tribunal had refused to hear his submissions at the facts stage of the hearing. He also stated the Tribunal's reliance on the evidence placed before it demonstrated that the Tribunal had proceeded unfairly and that his right to a fair hearing was being infringed. Dr Hassan further stated that the Tribunal's decision to allow the LQC to continue to chair the proceedings was further evidence of the bias against him. He stated that it was incumbent in the circumstances for the Tribunal to recuse itself in its entirety.

203. Mr Garside opposed Dr Hassan's application and reminded the Tribunal of the provisions of Rule 34(5) of the GMC (Fitness to Practise) Rules Order of Council 2004 (the Rules) which provides that "*the only evidence which may be adduced by a practitioner in rebuttal of a conviction...is evidence for the purposes of proving that he is not the person convicted*". He stated that there was no merit to Dr Hassan's application and he was seeking to relitigate the matters giving rise to his conviction before the Tribunal. Mr Garside reminded the Tribunal that Dr Hassan was convicted in the Magistrates' Court and the conviction was upheld on appeal at the Crown Court. He stated that it was clear that two separate courts were sure of Dr Hassan's guilt and this prohibits the Tribunal from hearing evidence about his conviction which Dr Hassan asserts it must hear. Mr Garside said that it was not for this Tribunal to challenge Dr Hassan's criminal conviction and that fairness and justice did not require a reconsideration. Mr Garside stated that in any event this was not the forum for any such reconsideration.

204. In relation to Dr Hassan's suggestion that the lay and medical members of the Tribunal are biased, Mr Garside submitted that the members were required to declare any conflict of interest and there are no conflicts. He said that the whole point of a Tribunal is that each member brings their own experience.

The Tribunal's Decision on recusal of the Tribunal

205. The Tribunal took into account the submissions of both parties and the advice of the Legally Qualified Chair (LQC) in reaching its decision.

206. Throughout this hearing the Tribunal has had at the forefront of its mind that its approach to Dr Hassan's has to be fair to the doctor who is unrepresented but also to the GMC. The Tribunal did not accept Dr Hassan's submission that the Tribunal's decision to refuse his application for the LQC to recuse herself from the proceedings inevitably meant that it was biased against him. On the contrary, it is the function of the Tribunal to determine applications before it. That an application is unsuccessful does not necessarily give rise to an indication of bias. Dr Hassan has provided no evidence demonstrating actual or potential bias on the part of the Tribunal or that there are circumstances which would give rise to a perception of bias. The Tribunal in making its determination on the facts has done no more than is required by the Rules. The Tribunal was satisfied that, taking into consideration the circumstances of this case, a fair minded and informed observer would not conclude there was a real possibility of bias on the part of the Tribunal.

207. Accordingly, the Tribunal determined to refuse Dr Hassan's application for it to recuse itself.

Application to investigate how the Tribunal was empanelled

208. Dr Hassan stated to the Tribunal that he had made complaints to the MPTS about the way that it had been empanelled for his hearing. He referred to the fact that a previous Tribunal had recused itself on the basis of a conflict of interest on the part of the Chair and the Lay Member. He stated that he had never received a response from the MPTS following his complaint. Dr Hassan also made reference to a conspiracy between the GMC and the Interim Order Tribunal (IOT) to conceal evidence about his treatment in prison and the fact that he was not served with documents in advance of the IOT hearing. He further stated that the GMC had refused to investigate his complaints about individuals at the Trust in 2019.

209. Dr Hassan referred to a number of breaches of the Medical Act 1983 and other pieces of legislation in respect of the way his case has been handled. Dr Hassan also had questions as to the suitability and qualifications of the existing members of the Tribunal and those questions had also not been answered by the MPTS. He stated that it was not clear to him how the Tribunal members' experience made them suitably qualified to determine his case.

210. Mr Garside opposed Dr Hassan's application stating that he had no prior knowledge of the reasons for the previous Tribunal's recusal. In any event he submitted that the MPTS and GMC were separate entities, and that the GMC had no involvement in the way Tribunal

members were selected. He stated that the selection of a Tribunal was a function of the MPTS and there were procedures in place to advise doctors in advance of who the Tribunal members were likely to be in order to identify potential conflicts of interest. He submitted there was no evidence of corruption or misfeasance on the part of either the GMC, MPTS or the Tribunal. Mr Garside further stated that Dr Hassan's submission in this respect were simply an attempt to force investigations and disclosures which were likely to be difficult and expensive and would not assist the Tribunal in making its determinations. Mr Garside submitted that application was also without merit and bound to fail.

The Tribunal's Decision on empanelment

211. The Tribunal took into account the submissions of both parties and the advice of the Legally Qualified Chair in reaching its decision.

212. The Tribunal considered that there was little, if any, jurisdiction to consider or call into question the way in which Tribunals were empanelled. It considered that Tribunal members are allocated to a case primarily depending on their availability and had no knowledge of a case until they each received the documents, at most 10 days before a hearing. They also had regard to the fact that Tribunal members are careful to guard against conflicts of interest and seek to identify any such conflict at the earliest opportunity and highlight them before proceeding with a case. None of the three Tribunal members had any prior knowledge of Dr Hassan's case before being empanelled and no evidence or information had since come to light which would give rise to a conflict or otherwise cause them to either individually or collectively conclude that there was a conflict or there was an issue with their empanelment. The Tribunal also had regard to the fact that Dr Hassan's concerns in respect of his IOT hearings had been the subject of no fewer than three separate judicial review applications, all of which have been refused.

213. In light of this, the Tribunal was satisfied there was nothing calling into question their initial or continuing empanelment in determining Dr Hassan's case.

214. Accordingly, the Tribunal determined to refuse Dr Hassan's application.

ANNEX I – 01/08/2023

Application from Dr Hassan to adjourn proceedings

215. On 1 August 2023, at the outset of the reconvened hearing, Dr Hassan made an application for the hearing to adjourn under Rule 29(2) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'), which states:

“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.”

216. Dr Hassan also made an application for the Tribunal to recuse itself.

Submissions from Dr Hassan

217. Dr Hassan submitted that a letter from the Criminal Cases Review Commission ('CCRC') dated 1 June 2023 should be considered and should form the basis of an adjournment. Dr Hassan further stated that there were two outstanding applications before the High Court made by MrD, his brother. One was to vary an Order of a High Court Master, striking out a claim against each of the Tribunal Members, the MPTS and the GMC and its Registrar. The second was an application for an injunction to prevent the Tribunal Members from proceeding with the hearing as they were named Defendants in the first application. Dr Hassan stated that Mr D's applications were both inextricably linked and highly relevant to the matters before this Tribunal. He stated that those applications needed careful consideration and on that basis the hearing should not proceed.

218. Dr Hassan submitted that the applications could not have been made sooner as the application for an injunction was borne out of a decision by an MPTS Case Manager that his application for an adjournment should be dealt with by the Tribunal itself. He contended that the MPTS Case Manager had no jurisdiction to make such a decision. Dr Hassan stated that the requirement for the Tribunal to act fairly and justly took primacy over the statutory overarching objective and the Tribunal was under an absolute obligation to adjourn the proceedings.

219. In respect of his application for a recusal, Dr Hassan submitted that as there were outstanding allegations of perjury, abuse of statutory power and misfeasance in public office which had yet to be determined by the Court, it was incumbent on the Tribunal to recuse itself.

Submissions from the GMC

220. On behalf of the GMC, Mr Rigby, Counsel, opposed Dr Hassan's application. He submitted that this has been a long delayed hearing and any further delay would be contrary

to the public interest. Mr Rigby submitted that this application was made on the same basis as the previous applications made by Dr Hassan, the last of which was in February 2023 and which had been refused. Mr Rigby submitted that only two new matters, not of Dr Hassan's making, had emerged since the hearing was last adjourned. The first was the letter from the CCRC which he submitted took the Tribunal no further as it simply said that his case was being considered and the second was the application by Mr D which had been struck out by the Court. Mr Rigby stated that neither matter added anything and in respect of the High Court application by Mr D, that should not cause the Tribunal to change its previously adopted position. Mr Rigby stated there was no proper basis for an adjournment and any adjournment would be disproportionate in the circumstances.

The Tribunal's approach

221. In determining Dr Hassan's application whether or not to adjourn the proceedings, the Tribunal bore in mind that it was for Dr Hassan to demonstrate that the hearing should not proceed. The Tribunal bore in mind that a decision on whether the hearing should be postponed was a matter for it exercising its discretion and that such discretion was to be exercised with great care. It reminded itself of the need to balance the interests of Dr Hassan and any prejudice to him in proceeding with the hearing against the wider public interest, the statutory overarching objective and the requirement for proceedings to be disposed of in a fair, economic, efficient and expeditious manner and within a reasonable time of the events to which it relates.

222. In considering the application for the Tribunal to recuse itself, the Tribunal had regard to the test set out in *Porter v Magill* [2002] AC 357 and the question of whether a fair minded and informed observer, having considered the facts, would conclude there was a real possibility that the Tribunal was biased.

223. The Tribunal also noted an emailed response from Dr Hassan who claimed to have not heard the GMC's submission. The Tribunal ensured that Dr Hassan was aware of the GMC's opposition to his applications. Dr Hassan also complained in his email that he had not been afforded time to make his applications, however, the Tribunal reminded itself that Dr Hassan had been given an allocated time limit to make oral submissions. It had been a matter for him as to how he used the allowed time and the Tribunal was satisfied that it fully understood the arguments advanced by Dr Hassan.

Tribunal decision

224. The Tribunal took into account the submissions of both parties in making its determination.

Application to Adjourn

225. The Tribunal had regard to the letter from the CCRC dated 1 June 2023 which was presented to the Tribunal in redacted form. From the unredacted information, the Tribunal noted that the CCRC's position was that it was considering Dr Hassan's case further in determining whether his conviction i.e. the matter which gives rise to this hearing should be referred to the Court of Appeal. The CCRC letter went on to say that it would provide a further update to Dr Hassan in late August 2023.

226. The Tribunal noted that no decision had been made in respect of Dr Hassan's application and there was no indication as to when any such decision would be made or the likely outcome of the CCRC's consideration. The Tribunal balanced the fact that there was no timescale for a decision against the statutory overarching objective, the wider public interest and the fair, economic, expeditious and efficient disposal of proceeding. It determined that the balance fell in favour of the hearing proceeding. The Tribunal noted that Dr Hassan was convicted of these offences in February 2019, his previous appeal against his conviction was dismissed and these proceedings commenced in December of 2021, now more than 18 months ago. The Tribunal was satisfied that the public interest would not be served by a further delay, particularly in circumstances where it was unclear what the outcome of the CCRC's consideration would be.

227. In any event, the Tribunal noted that even if the CCRC accepted Dr Hassan's application, referred the matter to the Court of Appeal and his conviction was quashed, any decision by this Tribunal would be null and void as it is the underlying conviction which forms the basis of these proceedings.

228. In considering whether the hearing should be adjourned on the basis of outstanding applications by Mr D before the High Court, the Tribunal noted that Mr D was not a party to these proceedings. As such, the Tribunal did not consider there was any basis for his applications to adjourn these proceedings. In any event, the Tribunal noted that his initial application was struck out by the High Court on the basis "*...that the Particulars of Claim do not disclose a comprehensible or coherent claim known to English law.*" While Dr Hassan submits the matters are inextricably linked, there was no evidence that the High Court was considering the application to vary the Master's Order or the application for an injunction. Further, there was no evidence that even if both applications were to be considered, when that consideration would take place. The Tribunal had regard to the fact that Mr D had no standing in these proceedings, one application had previously been struck out and there was no evidence the application for an injunction would be granted. These factors were balanced against the relevant factors in determining whether the hearing should proceed. The Tribunal determined that both the public interest, the statutory overarching objective and the fair,

economical, efficient and expeditious disposal of these proceedings dictated that the hearing should proceed.

229. The Tribunal also considered whether, when taken together, each of the basis of Dr Hassan's application to adjourn the proceedings meant the proceedings should be adjourned. The Tribunal concluded that given the excessive delays, disproportionate time and cost being spent on these proceedings and that none of the information before it has substantially changed the position in respect of Dr Hassan's conviction, meant the balance continued to fall in favour of proceeding with the hearing.

230. Accordingly, the Tribunal refused Dr Hassan's application for an adjournment.

Application for Recusal

231. The Tribunal had regard to Dr Hassan's submissions that there were determinations outstanding against each of the Tribunal members in respect of serious allegations of perjury, abuse of statutory power and misfeasance in public office. The Tribunal also had regard to the fact that those allegations were made by Mr D who was not a party to those proceedings and that the Tribunal had made no findings against Mr D and had no power to do so. Further, the Tribunal noted that the initial application had been struck out by the High Court.

232. The Tribunal was satisfied that a fair-minded observer, in full possession of the facts of this case, would not conclude there was a real possibility of bias on the part of the Tribunal, particularly in circumstances where Mr D was not a party to the proceedings and no findings have been or will be made against him.

233. Accordingly, the Tribunal refused the application to recuse itself.

ANNEX J – 01/08/2023

Proceeding in Absence

234. On day 10 of this hearing, the Tribunal, shortly before adjourning for lunch advised parties that the hearing was due to reconvene at 15:40 to hear submissions on whether Dr Hassan's fitness to practise was impaired by reason of his conviction. At 15.40 Dr Hassan was not present to be admitted to the hearing room and the Tribunal clerk took steps to contact Dr Hassan by email, the only available mechanism available to contact him, to let him know the Tribunal was waiting to reconvene. At 16.05, with there still being no communication from Dr Hassan, the Tribunal considered whether it would need to make a decision to proceed in Dr Hassan's absence.

Submissions

235. On behalf of the GMC, Mr Rigby submitted that the hearing should proceed in Dr Hassan's absence. He stated that it was clear from the Tribunal's directions prior to the adjournment that the hearing would reconvene at 15.40. Mr Rigby submitted that Dr Hassan had been communicating with the Tribunal on the morning of the hearing without issue. He stated that Dr Hassan had since 14.00 to let the Tribunal know of any difficulties he was experiencing. In circumstances where he had not done so, the only conclusion which could be drawn was that Dr Hassan had voluntarily absented him from these proceedings.

The Tribunal's Determination

236. In making its determination the Tribunal noted that the decision as to whether or not the hearing should proceed in Dr Hassan's absence was a matter for its discretion and that such discretion was to be exercised with great care and caution.

237. The Tribunal had regard to the legal authority of *R v Hayward, Jones & Purvis* [2001] QB 862 CA, which states that a defendant has a right to be present at a trial and a right to be legally represented but that those rights can be waived where a defendant voluntarily absents themselves from a trial and/or withdraws instructions from those representing them. The Tribunal also had regard to the case of *General Medical Council v Adeogba* [2016] EWCA Civ 162 which applies the principles set out in *R v Jones* in the regulatory context..

238. The Tribunal noted that there had been no communication from Dr Hassan giving reasons for his not attending the hearing at 15.40 as directed. The Tribunal also had regard to the fact that Dr Hassan had been communicating with the Tribunal on the day of the hearing including in circumstances where the Tribunal were in camera deliberating his applications. The Tribunal further had regard to the fact that steps were taken to contact Dr Hassan to let him know that the Tribunal had reconvened and were waiting for him but no response was received to that communication by the time it adjourned to make its decision, almost 30 minutes after it was due to reconvene.

239. The Tribunal had regard to the principles in *Jones* and *Adeogba* noting that while Dr Hassan had a right to be present at the hearing, this was not an absolute right. The Tribunal was satisfied that Dr Hassan was aware of the time the hearing was due to reconvene. It was satisfied that his actions in not attending, particularly in circumstances where the Tribunal had refused applications to adjourn or recuse itself, represented a deliberate decision to absent himself from the proceedings and/or to further frustrate the process. The Tribunal was not satisfied that any further adjournment would result in securing Dr Hassan's attendance or his making any submissions on whether his fitness to practise was impaired as

required and directed by the Tribunal. The Tribunal also had regard to the likely length of any adjournment should the matter not proceed. The Tribunal noted that this hearing commenced in December 2021 and that fairness, the wider public interest, the statutory overarching objective and the requirement for the fair, economic, efficient and expeditious disposal of these proceedings dictated that the matter proceed in Dr Hassan’s absence.

240. The Tribunal was also satisfied that any further delay in this case in the absence of any evidence justifying further adjournments would undermine public confidence in the medical profession, the public interest in the proper regulation of medical professionals and the wider regulatory process.

241. The Tribunal therefore determined to proceed in Dr Hassan’s absence.