

PUBLIC RECORD

Dates: 24/02/21 - 26/02/2021, 15/04/21 - 16/04/2021 & 21/05/2021

Medical Practitioner's name: Dr Mohsan ANWAR

GMC reference number: 7671906

Primary medical qualification: MB BCh 2019 Cardiff University

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

Summary of outcome

Suspension, 12 months
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Miss Megan Larrinaga
Lay Tribunal Member:	Mr Geoffrey Brighton
Medical Tribunal Member:	Dr Farah Yusuf

Tribunal Clerk:	Ms Keely Crabtree - 24/02/21 – 26/02/21 Ms Anne Bhatti - 15/04/21 - 16/04/21 Ms Hollie Middleton – 21/05/21
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Christopher Geering, Counsel, directly instructed
GMC Representative:	Mr Alan Taylor, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held 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 and Impairment - 15/04/2021

Background

1. Dr Mohsan Anwar gained his primary medical qualification from Cardiff University in 2019. At the time of the events which give rise to the allegation, Dr Anwar was a fifth-year medical student undertaking his final year of placements in Bangor, North Wales.
2. The allegation that has led to Dr Anwar's hearing can be summarised as that on 8 June 2020, at Caernarfon Magistrates' Court, he was convicted of possessing three extreme pornographic images (bestiality), which were grossly offensive, disgusting or otherwise of an obscene character and possession of an indecent image, namely a Category A photograph of a child, between 16 October 2018 and 28 January 2019. On 7 July 2020 Dr Anwar was sentenced to a Community Order to carry out unpaid work for 300 hours within 12 months in respect of each charge and to register with the police in accordance with the Sexual Offences Act 2003 for five years.
3. At the time of his arrest on 13 October 2019, police seized Dr Anwar's phone. The police investigation showed that the images in question, were in fact, four videos. The Category A indecent image of XXX. The remaining three videos all show XXX
4. The images were circulated by members of two separate group chats on the 'WhatsApp' messaging application. One group was from a local rugby club and comprised 54 men and the other group were members of a local gym and comprised 19 men. Dr Anwar was a member of both groups.

5. During the course of his first police interview on 13 October 2019, Dr Anwar denied receiving or watching the images and any other wrongdoing. Following his arrest and interview he was released on police bail pending further investigation. Dr Anwar was interviewed again on 18 February 2020 when he again denied any wrongdoing and he also denied knowing how the images came to be on his mobile phone. He denied watching the videos in question and told the police that others may have accessed his telephone and caused the images to be downloaded. Within two days of this interview, Dr Anwar contacted the police requesting a further interview. This interview took place on 13 March 2020 when he fully admitted being in possession of the videos, although he maintained he did not download them. He stated that they were downloaded by virtue of the automatic settings in the 'WhatsApp' application. Dr Anwar also admitted watching the videos in question.

6. Dr Anwar was charged on 3 April 2020 with the offences as set out in the allegation, he pleaded guilty on 8 June 2020 and was sentenced on 7 July 2020.

7. On 3 April 2020, Dr Anwar referred himself to the General Medical Council (GMC) and thereafter kept the GMC updated on the progress of his case by email.

The Outcome of Applications Made during the Facts Stage

8. At the outset of proceedings, Mr Alan Taylor, Counsel, on behalf of the GMC, made an application pursuant to Rule 17(6) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to make a number of amendments to the allegation. Mr Geering, on behalf of Dr Anwar, did not object to the application. The Tribunal was satisfied that the amendments to the allegation could be made without injustice to either party and therefore granted the application. With the application granted and the amendments made, the Allegation now reads:

The Allegation and the Doctor's Response

9. The Allegation made against Dr Anwar is as follows:

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

1. On ~~7 July~~ 8 June 2020 at Caernarfon Magistrates' Court you were convicted of:
Amended under Rule 17(6)

~~a. convicted of:~~

~~i.~~ a. possessing three extreme pornographic images (bestiality) between 16 October 2018 and 28 January ~~2018~~ 2019 which were grossly offensive, disgusting or otherwise of an obscene character and a reasonable person looking at the image would think that any such person or animal was real, contrary to sections 63(1), (7)(d) and 67(3) of the Criminal Justice and Immigration Act 2008 (~~‘Charge 1’~~);

Amended under Rule 17(6) Admitted and found proved

~~ii.~~ b. possession of an indecent photograph, namely a category A photograph of a child, on 5 December 2018, contrary to section 160(1), (2A) and (3) of the Criminal Justice Act 1988 (~~‘Charge 2’~~);

Amended under Rule 17(6) Admitted and found proved

~~b.~~ 2. On 7 July 2020 at Caernarfon Magistrates’ Court you were: ~~sentenced to:~~

~~i.~~ a. sentenced to a Community Order, with a requirement to carry out unpaid work for 300 hours within the next 12 months in relation to Charge 1; **Amended under Rule 17(6) Admitted and found proved**

~~ii.~~ ~~carry out unpaid work for 300 hours within the next 12 months in relation to Charge 2;~~

~~iii.~~ b. required to register with the police in accordance with the Sexual Offences Act 2003 from 8 June 2020 for five years in relation to Charge 2. **Amended under Rule 17(6) Admitted and found proved**

The Admitted Facts

10. At the outset of these proceedings, through his Counsel, Mr Christopher Geering, Dr Anwar made admissions to all paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced the paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

Impairment

11. With no facts remaining in dispute, the Tribunal 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, Dr Anwar’s fitness to practise is currently impaired by reason of his conviction.

12. Dr Anwar provided a reflective statement and gave oral evidence at the hearing.

Documentary Evidence

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

- Dr Anwar's self-referral by email to the GMC dated 3 April 2020;
- Update from Dr Anwar to the GMC regarding sentencing dated 8 July 2020;
- Certificate of conviction dated 7 July 2020;
- Witness statement of Police Constable A (made for the purposes of Dr Anwar's criminal proceedings) dated 9 February 2020 and its accompanying exhibit setting out a detailed description of the videos;
- Police report dated 24 April 2020;
- Email from Dr Anwar to the GMC regarding the Health Board investigation, dated 16 September 2020;
- Report from the Safer Lives programme (a company providing pre-sentence support for males to help them understand their offending behaviour) in respect of Dr Anwar dated 9 March 2020;
- Pre-sentencing report from National Probation Service dated 2 July 2020;
- Final Written Warning from the Health Board dated 4 January 2021;
- Dr Anwar's Employment update from Ysbyty Gwynedd dated 15 January 2021;
- Dr Anwar's reflective statement undated ;
- Confirmation of completion of Unpaid Work requirement of Community Order dated 1 February 2021;
- XXX;
- Letter from Dr B dated 15 January 2021;
- Testimonials from colleagues, neighbours, friends and others.

Dr Anwar's evidence

14. Dr Anwar stated that he had dreamed of becoming a doctor since the age of thirteen, following XXX. He spent the first four years of his medical degree at Cardiff University where he had a close and supportive group of friends. He stated that in the fourth year of his medical studies he felt increasingly under pressure and that he began his fifth-year placement within two weeks of completing some fourth-year re-sit exams. He stated he felt increasingly socially isolated away from his close-knit group of friends and that in April 2018, following XXX. He stated that the fear of failing his medical degree (which would have

happened had he not passed his fourth year resits) coupled with the social isolation from his friends and family had left him feeling very fragile, lethargic, XXX and he was finding it difficult to concentrate.

15. Dr Anwar stated that he felt unable to turn to his family for help as some of the pressure he felt to qualify as a doctor came from them. He said that he felt like he did not truly belong anywhere and that he was in a transitional stage between being merely a student and the doctor he had always dreamt of becoming. Dr Anwar said he felt that the fear of failure and lack of social interaction would be resolved by membership of the gym and rugby clubs and inclusion in the two associated WhatsApp groups. He believed that being part of a 'collective' would allow him to escape the pressures of exams. He stated that the gym and the rugby club were places he could be 'just Moss' and not 'Moss the doctor'. His evidence was that members of the group referred to him as 'doc' and such references added to the pressure he was already feeling to qualify as a doctor. Dr Anwar stated that the feeling of being a part of the 'collective' allowed him to hide his insecurities and provided some escapism which had a positive impact on his revision and ultimately his grades.

16. Dr Anwar stated that on joining the gym and rugby club, his number was added to the 'WhatsApp' group chats for each organisation. Dr Anwar stated that he had never been part of large 'lads banter' group chats and that he was naïve with respect to the culture and the nature of the conversations which would take place. He stated that the currency of the two groups were crude humour, shock value and one upmanship. He stated that the atmosphere of both groups was one of 'toxic masculinity' and that both groups had a number of 'alpha males'. Dr Anwar stated that although he was the only ethnically Asian member of the group and was the subject of derogatory remarks about his ethnicity, he still wanted to 'fit in' and 'be one of the lads'. He stated that in order to facilitate that acceptance, he foolishly participated in the 'crude humour' and 'lads banter'. Dr Anwar accepted that he contributed to the culture of these groups in making comments but that he had done so in order to fit in.

17. Dr Anwar explained it was in the context of lads banter, crude humour and shock value, that the images were sent. He stated that at the time he received the videos he watched them and thought they were funny. He stated that he got no sexual gratification from any of the videos and he had no idea that they had been downloaded and saved onto his phone. His evidence was that at the time he received the videos he would have found them funny as a result of the context they were sent in and the nature of the groups and would have only watched the videos once before carrying on with his day. He accepted that he was foolish in finding the material funny and considering them now he accepts they are filthy, disgusting and abhorrent. He stated that he now considered the individuals in those videos as victims and that if he were to meet them he would be unable to look them in the

eye. Dr Anwar stated that he had no idea that he had been sent images of child abuse material or that he was in possession of such an image. He stated that had he known the image had been saved onto his device, he would have deleted it. He stated that he deeply regretted his conduct which was far removed from the person he was and the person he wanted to become.

18. When questioned by Mr Geering about the impact on the young child in the video, he stated that he now understood that the video would be detrimental to that child. He said the consequences would be far reaching and have a huge impact on the child, especially knowing that something so horrible about them had been circulated in public. When asked how he would feel if the video involving the child happened to be one of his relatives, he became visibly distressed and stated that he would be shocked to his core and horrified that a member of his family had been treated that way.

19. On cross examination, Dr Anwar was asked specifically about some comments he made as part of the group chats both in respect of the videos and more generally. In one of the chat groups a male asked if anyone was training in the gym to which Dr Anwar replied saying *'IM MORE THAN LIKELY TOUCHING KIDS AND FINGERING OLD MENS BUMHOLES. SORRY MATE'*. During one of the other group chats a bestiality video was shared. A member of the group commented and compared the video to the Category A child image saying: *'WORSE THAT [SIC] THE KID ...!!!'* Dr Anwar replied to say *'I KNOW RIGHT HAHA' 'I'VE GOT WEIRDER ONES'...* *'FROM THE RUGBY CHAT'*. The male replied, *'SOME OF THE THINGS I GET IS UNREAL!! I JUST CANT SHARE THEM'*. Dr Anwar replied *'YOU'LL GET KICKED OUT' ...'LIKE ME' ...'SEND THEM MY WAY' ...'I LOVE IT'*.

20. Dr Anwar stated that at the time he wanted to fit in and he succumbed to the negative culture. He stated that the individual he was speaking to at the time was one of the *'alpha males'* of the group, and he wanted to appease him and therefore enthusiastically participated in that behaviour.

21. Dr Anwar was specifically asked about the *'bumholes'* comment and his evidence was that both groups mocked him for being a doctor and the fact he would be required to carry out prostate exams. Dr Anwar stated that he would therefore make jokes about this before others would do so. Dr Anwar accepted that his behaviour was shameful and stated that he was full of shame and regret for the way he behaved.

22. Dr Anwar stated that on his initial arrest by the police, he did not accept that he had possession of the images and that in his first police interview, he was shown the four videos. He was asked by the police how he came to be in possession of them and he said he had no

memory of how they came to be on his phone. He said the time between his first interview and second interview was emotionally crippling and he spent his time trying to understand how he came to be in possession of the videos. Dr Anwar gave evidence that he had never searched for or downloaded the video and therefore could not understand why they were stored on his phone. He stated at his second interview he was provided with the results of the full forensic download from his phone and as a result of fear, panic and shame taking over he did not accept his involvement and tried to pass the blame onto others. He accepted he was not candid with the police in his second interview and wholeheartedly regrets not being so. He stated that at the time of the second interview he was not thinking rationally but following the interview when the shock had worn off, he sought to make amends and within a couple of days requested a third interview. At the conclusion of the second interview and before his court hearing, he sought out the Safer Lives initiative of his own volition and explained the circumstances of his arrest to them as he wanted to understand what had caused him to act in the way he had and which led to the serious lapse in his judgement. He had never acted in that way before. Dr Anwar reiterated that he was deeply ashamed of his actions and that his involvement with Safer Lives helped him to gain insight into his behaviour.

23. Dr Anwar stated there was a delay between his request for a third interview and the interview taking place but when it did he made full admissions to being in possession of the videos.

24. Dr Anwar stated that he left the geographical area of both the gym and rugby clubs in February 2019 when he moved to Australia to undertake a medical student elective attachment. His evidence was that the move to Australia presented him with a natural exit from both groups. He stated he had no further contact with the gym 'WhatsApp' chat group after February 2019 and that he sent one message to the rugby club 'WhatsApp' chat group in May 2019. He stated he left both groups after May 2019 and had not seen anyone involved in these groups since February 2019.

25. Dr Anwar stated that since his arrest and conviction he has not been part of any other social groups on 'WhatsApp'. XXX. His evidence was that at the time in question he used exercise as a way to cope and to hide his issues and insecurities. He stated that he is now more comfortable with being emotionally vulnerable, speaks openly about how he is feeling and is no longer afraid to ask for help. Dr Anwar confirmed that XXX he learned numerous techniques to help him with stress, has taken up golf which he finds meditative and is open with his friends and family about how he is feeling.

26. Dr Anwar also said following his arrest he kept both the GMC and the Health Board up to date with everything including his charge, court appearance and sentence. He said on his arrest he was suspended from his duties at the hospital but that with the help and support of his Foundation Year 1 Trainer, he was given a final written warning by the Health Board as a result of his conviction.

27. Dr Anwar's evidence was that he realised that he brought the medical profession into disrepute and that he had broken the public's trust in the profession. He stated he was unbelievably ashamed of his actions, his behaviour went against everything he wanted to be and was stupid and foolish. He accepted that his comments were unacceptable and they were never intended to cause harm. He said he understood that the public trusted doctors with their lives, that there was no greater trust, that he had broken that trust and had damaged his reputation. Dr Anwar stated that he knew that his actions had had a profound effect on his colleagues, hospital and Health Board, particularly in the circumstances of the Covid-19 pandemic. He said he was devastated and would never forgive himself for not being able to help his colleagues during the pandemic.

28. He stated that the hospital and Health Board was always more than a first rotation to him, as this was the hospital where his dream of being a doctor first started and which was symbolic to him and of his journey. He said the ten weeks he spent there working XXX and helping his community was the best time of his life.

29. Dr Anwar stated that although the period since his arrest and conviction had been incredibly stressful, he had used the techniques he learned XXX to cope and would make sure his behaviour was never repeated. He also stated that he had undertaken lots of readings into 'lads groups' and 'toxic masculinity' and had sought to keep his medical knowledge up to date despite his suspension. He stated that he knew his career was in the balance and that if given the opportunity he would use it to become the best doctor he could be and help people as that is all he ever wanted to do.

Submissions

30. Mr Taylor referred the Tribunal to the statutory overarching objective and reminded the Tribunal that it should have it at the forefront its considerations on impairment. Mr Taylor reminded the Tribunal that determining whether Dr Anwar's fitness to practise was impaired was a two-stage process. Firstly, it must decide whether one of the matters set out in Section 35C(2) of the Act was engaged and that if so, it must then determine whether Dr Anwar's fitness to practise was impaired. Mr Taylor stated that there is no doubt that there is

a conviction as this was detailed in the uncontested memorandum of conviction and that Dr Anwar's fitness to practise was impaired by reason of his conviction.

31. Mr Taylor submitted that it was beyond comprehension how the videos, as described, could cause sexual arousal. He stated that the videos were pure filth and utterly abhorrent. He submitted that only a profoundly warped and perverted mind could find such images amusing. Mr Taylor implored the Tribunal to guard against minimising or excusing the possession of the videos on the basis '*boys will be boys*', treating it as '*lads banter*' or considering this as some aspect of immaturity. He submitted that there was no excuse for a 27-year-old medic undertaking his final year of placements and planning to study in Australia for four months to have in his possession such videos.

32. Mr Taylor submitted that Dr Anwar went much further than he needed to in order to gain acceptance of the group and was an enthusiastic participant in the group chat. He reminded the Tribunal when one member of one of the group chats indicated they would be deleting the Category A image of the child as it constituted '*child porn*' Dr Anwar did not follow suit. Dr Anwar accessed and viewed the video and carried on. Mr Taylor also reminded the Tribunal of some of the comments made by Dr Anwar in seeking to obtain further videos and the reference to '*touching kids*' and '*bumholes*' and submitted that this demonstrated an enthusiasm on the part of Dr Anwar which went beyond social acceptance. Mr Taylor submitted that Dr Anwar's case was extremely serious.

33. Mr Taylor referred the Tribunal to the authority of *Council for Healthcare Regulatory Excellence and Nursing and midwifery counsel v Grant 2011 EWH 927 Admin* in assessing whether Dr Anwar's fitness to practise is impaired:

'Do our findings of fact in respect of the doctor's misconduct / deficient professional performance ... show that his/her fitness to practise is impaired in the sense that s/he:

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

34. Mr Taylor submitted that limbs (2) and (3) of the test set out in *Grant* were engaged. He also drew to the Tribunal's attention the case of *Yeong v GMC [2009] EWHC 1923 (Admin)* which states that where a Tribunal considers that the case is one where public confidence in the profession may be undermined, a finding of impairment of fitness to practise may be justified on the grounds that it is necessary to reaffirm clear standards of professional conduct so as to maintain public confidence in the practitioner and the profession. It also stated in such a case, the efforts made by the practitioner to address his behaviour for the future may carry very much less weight than in a case where the misconduct consists of clinical errors or incompetence. Mr Taylor submitted that this was such a case and that the efforts of Dr Anwar to address his behaviour for the future carry very much less weight.

35. Mr Taylor submitted that the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular extremely serious circumstances of this case.

36. Mr Taylor referred the Tribunal to Good Medical Practice ('GMP') in particular paragraphs 1, 27, 47 and 65 which he submitted were relevant to this case. In addition, Mr Taylor referred the Tribunal to the GMC documents *Protecting children and young people: The responsibilities of all doctors* and *0–18 years: guidance for all doctors*. Mr Taylor stated that far from protecting the 9-year-old child in the video, Dr Anwar effectively perpetuated this child's sexual exploitation, a matter which he submitted that Dr Anwar now recognises. Mr Taylor submitted that this was extremely serious and that while those in the videos were not patients, it would be expected that a doctor would not have to be reminded to treat human beings with privacy and dignity.

37. Mr Taylor stated that there was no doubt that Dr Anwar, through his conviction, had brought the medical profession into disrepute and this is conduct that would be regarded as extremely deplorable by the medical profession. While Mr Taylor accepted that Dr Anwar had insight into his behaviour, he submitted that Dr Anwar had abused the public trust and by his conduct had violated a fundamental tenet of the medical profession. He submitted that a finding of impairment was necessary to reaffirm the standards expected and to maintain public confidence in the medical profession. He further submitted that in the extremely serious circumstances of this case, the need to uphold proper professional standards and public confidence in the profession demanded that a finding of impairment is made.

38. On behalf of Dr Anwar, Mr Geering accepted that Dr Anwar's fitness to practise was impaired but submitted that there was no basis to conclude that Dr Anwar posed a risk to the public or that he would ever repeat such conduct again.

39. Mr Geering reminded the Tribunal that Dr Anwar had no sexual interest in the videos and that they were sent, uninvited to dozens of recipients, in two 'WhatsApp' groups comprising young men which Dr Anwar participated in. Mr Geering submitted that it could not be suggested that all these members had a sexual interest in bestial imagery and that the participants of the group were immature and acted in a wholly inappropriate and criminal way. Mr Geering submitted that the intention in the videos being sent by members of the group appears to have been a crude form of banter, not of sexual gratification. Mr Geering stated that the fact the messages were for humour is not a defence and does not alter the fact that the pictures were grotesque. However, he argued that the context in which the videos were sent were plainly relevant to the risk of repetition and reminded the Tribunal that Dr Anwar does not have a sexual interest in such material.

40. Mr Geering referred the Tribunal to the expert assessments carried out by Safer Lives and the report from the National Probation Service both of which concluded that Dr Anwar was of low-medium risk of offending and that sexual rehabilitation was unnecessary.

41. Mr Geering submitted that the circumstances leading to Dr Anwar's arrest and conviction including his feelings of isolation, being away from friends and family, the pressure of final exams, the weight of expectation on his becoming a doctor, XXX painted a coherent and compelling picture of Dr Anwar and his circumstances.

42. Mr Geering reminded the Tribunal that Dr Anwar made admissions well before his first court appearance, had repeated those admissions to the Health Board, had co-operated with the Probation Service and his regulator and had been candid in giving evidence to the Tribunal. He submitted that Dr Anwar had been proactive in reflecting on his behaviour, sought out Safer Lives of his own volition in trying to understand his conduct and was XXX all of which was to his credit.

43. Mr Geering submitted that Dr Anwar had shown remorse for his actions and empathised with the victims in these videos. He stated that Dr Anwar fully understood the impact of his actions on his colleagues, the Health Board, and the profession more widely and had candidly acknowledged the damage his actions would cause. Mr Geering submitted that Dr Anwar's process of reflection had been a long one, he had identified the defects in his character which led him to act in this way for example why he became an enthusiastic

participant in the groups to try to fit in, looked at the root cause of his actions and put in place appropriate measures to remove such a risk in the future.

44. Mr Geering submitted that prior to and since Dr Anwar's arrest, there was no evidence he had viewed any further inappropriate material and Dr Anwar had done nothing to attract even the faintest hint of suspicion. Mr Geering reminded the Tribunal that two years had passed with no repetition and that the passage of time argues against a risk of repetition.

45. Mr Geering referred the Tribunal to Dr Anwar's many testimonials and character references all of which describe Dr Anwar as polite, restrained, respectful and a dedicated pillar of the community. Mr Geering stated that the testimonials show that Dr Anwar was highly thought of and that his actions were out of character. Mr Geering submitted that Dr Anwar is remorseful for his actions is dedicated to the health service and presents a low risk of repetition.

The Tribunal's Approach

46. The decision on impairment is a matter for the Tribunal's judgment alone. The Tribunal has given careful consideration to all of the evidence that has been adduced during the course of these proceedings and the circumstances of the conviction. It has also borne in mind all three limbs of the statutory overarching objective: to protect and promote the health, safety and wellbeing 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 the medical profession.

47. The Tribunal noted that Section 35C(2) of the Medical Act 1983 provides that a person's fitness to practise may be regarded as impaired by reason of a conviction or caution in the British Islands for a criminal offence, or a conviction elsewhere for an offence that, if committed in England and Wales, would constitute a criminal offence.

48. The Tribunal accepted the Certificate of Conviction as conclusive proof that Dr Anwar had been convicted of a criminal offence in England and Wales.

49. The Tribunal must determine whether Dr Anwar's fitness to practise is impaired at the present time; looking to the future, taking into account his conduct at the time of the events together with any relevant factors that have arisen since then, such as any insight and/or remediation.

The Tribunal's Determination on Impairment

50. The Tribunal considered the offences for which Dr Anwar was convicted were extremely serious and were particularly concerned that one of the videos in question depicted a young child engaging in a sexual act, a video which on Dr Anwar's own evidence did not disturb him at the time he viewed it. The Tribunal is in no doubt that members of the public and the medical profession would consider Dr Anwar's viewing and finding humour in the videos as both abhorrent and grotesque.

51. The Tribunal accepted the GMC's submission that Dr Anwar was an enthusiastic participant in the group chats.

52. The Tribunal also accepted the GMC's submission that paragraphs 1, 27, 47 and 65 of GMP were engaged in this case:

'1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.

...

27 Whether or not you have vulnerable adults or children and young people as patients, you should consider their needs and welfare and offer them help if you think their rights have been abused or denied.

...

47 You must treat patients as individuals and respect their dignity and privacy.

...

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

53. In respect of paragraph 1 of GMP, the Tribunal considered that in light of his conviction it was clear that Dr Anwar failed to *'act with integrity and within the law'*. The Tribunal also considered that Dr Anwar failed to act in accordance with paragraphs 27 and 47 of GMP. While the Tribunal accepts that none of the individuals in any of the videos were Dr Anwar's patients, it considered that Dr Anwar, in viewing, finding humour in and commenting on the videos failed to consider the needs and welfare of the adults and child in the videos. He further failed to take any steps in the face of evidence that the rights of the individuals concerned were being abused or denied and he failed to respect their dignity and privacy.

The Tribunal further considers that Dr Anwar's finding humour in the videos and the context in which they were sent to be wholly inappropriate and inexcusable.

54. The Tribunal further considered that Dr Anwar's viewing and finding humour in the videos, coupled with the conviction, breached paragraph 65 of GMP as his conduct did not justify his patient's trust in him or the public's trust in the profession as a whole. The Tribunal had particular regard to the comments made by Dr Anwar in the group chats and in particular his comments about '*touching kids*' and '*fingering old men's bumholes*'. The Tribunal considered these comments to be grotesque and while they did not form part of the charges or the Allegation, gave the Tribunal context as to the discussion taking place in the 'WhatsApp' group chats. The Tribunal considered that these comments were a gross violation of paragraph 65 of GMP and would be considered deplorable both by members of the profession and the public in general. The Tribunal further considered that such comments were inexcusable from a 27-year-old final year medical student and future doctor and was at odds with someone whose evidence was that he had only ever wanted to help people.

55. The Tribunal was disturbed by Dr Anwar's evidence that after viewing the videos, he had simply carried on with the routine of his day. The Tribunal cannot conceive of any reasonable person, seeing a video of XXX and for that imagery to have had no impact at all. The Tribunal notes that Dr Anwar has since reflected on the videos and his reaction to them, has spoken of his horror at the videos and became visibly distressed at the thought of family members suffering the same fate.

56. The Tribunal noted Dr Anwar's evidence that the currency of the groups was crude humour, shock value, toxic masculinity and were dominated by alpha males and one upmanship. The Tribunal noted that that at least one member of the group provided a rebuke to the Category A video of the child stating, '*ERM JUST DELETED THAT THAT COUNTS AS CHILD PORN*'. Dr Anwar, in his evidence stated that he does not recall seeing the comment from that individual. Nevertheless, the Tribunal is concerned that despite seeing the video, Dr Anwar's need for social interaction and acceptance so easily displaced his duty to report the video to the authorities or to take any further action. The Tribunal took the view that the same was applicable to the other videos.

57. The Tribunal noted that from the outset Dr Anwar did not accept responsibility for possessing these images, had sought to make excuses and had tried to deflect blame on to others during his first and second interview with police. The Tribunal noted that even after Dr Anwar was presented with the evidence from the forensic download of his mobile telephone, he still did not accept his wrongdoing and only sought to make admissions days after the evidence had been presented to him.

58. The Tribunal also had concerns with Dr Anwar's apparent preoccupation as to how the videos came to be on his phone and his evidence that they had been automatically downloaded rather than him having taken any positive action to store them. The Tribunal did not accept Dr Anwar's explanation that he did not realise that he was in possession of these images due to not knowing the workings of the 'WhatsApp' application on his phone. While the Tribunal accepts that the videos were not downloaded to his phone by virtue of any positive action on the part of Dr Anwar, it remained concerned that he appeared to be content and unperturbed by the videos being stored in a 'WhatsApp' group chat he was an enthusiastic participant in.

59. The Tribunal accepts that Dr Anwar has insight into his behaviour. It also accepts that he sought the assistance from Safer Lives, had undertaken safeguarding courses both of his own initiative and has been open throughout the regulatory proceedings. The Tribunal noted that Dr Anwar accepted that his behaviour would have negatively impacted the medical profession and public confidence in the medical profession. The Tribunal also had careful regard to Dr Anwar's evidence of the impact of his behaviour on his colleagues at the hospital, the hospital itself and the Health Board. While the Tribunal accepts that Dr Anwar considered the impact of his actions on others, at this stage, his consideration appeared to be primarily focussed on him and his feelings of not being able to help particularly during the Covid-19 pandemic.

60. The Tribunal accepts that given his connection to the hospital, his remorse and shame for not being able to help at a time of unprecedented need for the medical profession was genuine and profound. However, the Tribunal remained concerned as to the limits of Dr Anwar's insight and that his insight was formulated on the basis of his own centred experience and perspective.

61. The Tribunal further noted that although he accepted the impact on the child depicted in the video, such insight was not fully formed at the time of the hearing, some two years after the offences occurred, 12 months after his consultation with Safer Lives and almost nine months after his conviction and sentence. The Tribunal noted that Dr Anwar's insight continued to develop in the course of extensive questioning by his Counsel, the GMC and the Tribunal. The Tribunal has noted with some concern an apparent lack of consideration on the part of Dr Anwar either in his oral evidence or reflective statement for the suffering of the animals in the videos. As such, while the Tribunal accepts that Dr Anwar has insight into his behaviour at the time he viewed the videos giving rise to his conviction, the videos themselves and the impact on others, it considers that his insight is incomplete.

62. The Tribunal also carefully considered the submissions in respect of the risk of repetition of his behaviour. The Tribunal accepts that Dr Anwar has no sexual interest in the images which gave rise to his convictions and these proceedings. It further accepts that since his arrest and conviction he has engaged with relevant professionals and read extensively in seeking to understand what led to his behaviour. The Tribunal notes that Dr Anwar has not sought to be part of such social groups since February 2019, that he has a supportive group of friends as well the support of his family and colleagues and therefore no longer feels socially isolated.

63. The Tribunal has also had regard to the fact that he is now being open with his friends and family and has said that he is no longer afraid to ask for help. Nevertheless, the Tribunal is concerned as to the risk of repetition in the event that Dr Anwar were to once again be in a situation where he may feel socially isolated and the steps he may take to address those feelings. As such, the Tribunal determined that there is a risk of repetition albeit that the risk is low.

64. The Tribunal accepts that that Dr Anwar has been candid and open in the giving of his evidence and that the remorse that he has shown is genuine. It notes that Dr Anwar has no previous convictions or cautions or disciplinary findings of any kind and has an abundance of testimonials from a variety of sources attesting to his good character. However, the Tribunal has placed limited weight on the testimonials at this stage of the proceedings.

65. The Tribunal carefully considered all three limbs of the statutory overarching objective and determined that Dr Anwar's behaviour in viewing and finding humour in the videos and taking no steps to delete or report them and his conviction for the possession of the videos engage all three limbs of the statutory objective. While the Tribunal is satisfied that Dr Anwar's viewing and commenting on the videos does not pose a direct risk to patient safety, it considers that his actions perpetuated the market for such images including the market for indecent images of children. Additionally, he failed to acknowledge or to act on his safeguarding responsibilities. The Tribunal also considers that in failing to report the images to the authorities Dr Anwar failed to protect, promote or maintain the health, safety and well-being of the public. The Tribunal further considers that Dr Anwar's conviction failed to promote and maintain public confidence in the medical profession and failed to promote and maintain proper professional standards of conduct for the medical profession.

66. In addition, the Tribunal considers that Dr Anwar's conduct and conviction breached fundamental tenets of the profession as well as GMP.

67. It considered that in light of the serious nature of Dr Anwar’s conviction, public confidence in the medical profession would be seriously undermined if a finding of impaired fitness to practise were not made. In light of this the Tribunal concluded that Dr Anwar’s fitness to practise is currently impaired by reason of his conviction.

Determination on Sanction - 21/05/2021

68. Having determined that Dr Anwar’s fitness to practise is impaired by reason of 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.

The Evidence

69. The Tribunal took into account evidence received during the earlier stages of the hearing, where relevant, in reaching its decision on sanction.

70. The Tribunal received further evidence on behalf of Dr Anwar including but not limited to:

- XXX;
- email from Police Sergeant C dated 16 March 2021 confirming Dr Anwar voluntarily surrendered his mobile phone during the investigation;
- update to references previously provided at facts and impairment stage;
- information in respect of Dr Anwar’s phased return to work including his clinical skills log, clinical skills training and his foundation year mandatory learning;
- a further reflective piece from Dr Anwar undated;
- information in respect of further articles read by Dr Anwar and his learnings from them;
- Dr Anwar’s Professional Development Plan;
- his detailed notes on medical topics.

Submissions

On behalf of the GMC

71. On behalf of the GMC, Mr Taylor reminded the Tribunal that the decision on sanction was a matter for it exercising its own judgment. He referred the Tribunal to the Sanctions Guidance (November 2020) (‘SG’) and reminded it that the authorities were clear that the SG

should be applied in order to ensure consistency. He stated that if the Tribunal wished to depart from the SG there would need to be a good reason for doing so. He stated that the main reason for imposing sanctions was to protect the public. He submitted that all three limbs of the overarching objective were engaged and submitted that the appropriate sanction in this case was one of erasure. He stated that the reputation of the profession was more important than an individual doctor and that the Tribunal should not give undue weight to any interim order and how long it had been in place. Mr Taylor submitted that personal mitigation carried less weight in regulatory proceedings than within the domain of criminal law. He submitted that the mitigating factors needed to be balanced against the need to fulfil the statutory overarching objective. Mr Taylor submitted that some failings were irreparable as they were so serious or persistent that despite any steps taken, action needed to be taken to maintain public confidence in the profession.

72. Mr Taylor submitted that the mitigating factors in Dr Anwar's case needed to be weighed against the nature of the facts found proved. Mr Taylor stated that the stage of Dr Anwar's career, should have limited influence on the Tribunal's decision on sanction. He reminded the Tribunal that the material viewed by Dr Anwar was '*pure filth*', '*utterly abhorrent*' and '*unconscionable*'. He accepted that Dr Anwar had positive testimonials but argued that those would need to be balanced against the need to protect the public and fulfilment of the statutory overarching objective. He also accepted that Dr Anwar had insight but submitted that his insight was limited.

73. Mr Taylor submitted there were a number of aggravating factors including that Dr Anwar's conviction involved a Category A image of XXX. He reminded the Tribunal that the other extreme pornographic images involved XXX. He submitted that it was extraordinary that anyone could find those images amusing. Mr Taylor reminded the Tribunal of Dr Anwar's enthusiastic participation and referred to his comments including '*send them my way*', '*I love it*' and '*touching kids*'. He further submitted that Dr Anwar being on the Sex Offenders Register until 2025 was a further aggravating factor in this case.

74. Mr Taylor submitted that taking no action was inappropriate as there were no exceptional circumstances in this case. He also submitted that the case was far too grave for a sanction of conditions to be considered as they would, in any event, be wholly inadequate, disproportionate and inappropriate. Mr Taylor stated that in considering suspension it did not go far enough to protect the public interest. He accepted that there had been acknowledgement of fault and the Tribunal had found a low risk of repetition, however, the Tribunal did not find no risk of repetition. He submitted that it was staggering to think that any repetition could occur. He argued that suspension was insufficient and disproportionate.

75. Mr Taylor referred the Tribunal to paragraphs 97 (a), f and g of SG but submitted that erasure was the only means of protecting the public and fulfilling the statutory overarching objective. He stated that it was astonishing that anyone could find such images amusing and there was a clear need to protect the public. He submitted that there had been a gross violation of GMP, a violation of patients' rights by exploiting vulnerable people and the convictions included possession of a Category A photograph of a child. He submitted that Dr Anwar had failed to take any steps, in relation to the abuse of the rights of the individuals in the videos. The offences seriously undermined patients' trust in the medical profession. It was such a fundamental breach, which had brought the medical professional into disrepute.

76. Mr Taylor argued that all three limbs of the statutory overarching objective were engaged, there was no excuse for Dr Anwar's behaviour and a clear message needed to be sent to the profession and to the public that such behaviour would not be tolerated by the regulator.

On behalf of Dr Anwar

77. On behalf of Dr Anwar, Mr Geering submitted that the appropriate sanction was a 12-month suspension with a review. He conceded that the SG indicated that cases involving child abuse materials were likely to result in erasure. However, he argued that erasure was not the mandatory outcome and that there was no presumption in favour of erasure. He reminded the Tribunal that the principle of proportionality required the Tribunal to approach the question of sanction starting with the least restrictive. He submitted that in Dr Anwar's case there were a number of highly material factors which indicated that a lesser sanction was appropriate.

78. Mr Geering reminded the Tribunal that Dr Anwar had no sexual interest in the material giving rise to his conviction and he gained no sexual gratification from viewing the videos. He submitted that this did not excuse Dr Anwar's conduct but argued that members of the public would differentiate between someone who had sourced and gained sexual gratification from the material. He submitted that there was no distorted sexual thinking in Dr Anwar's case, there were no search terms relating to the material giving rise to the conviction and no wider concerns from police intelligence into his behaviour. Mr Geering submitted that these factors distinguished Dr Anwar's case from the typical case concerning material of this nature. He further submitted that the absence of any sexual interest by Dr Anwar in the images giving rise to his conviction was highly material to the sentence imposed by the criminal courts. He invited the Tribunal to have regard to the sentence imposed by the court and reminded the Tribunal that no sexual treatment order,

custodial or suspended sentence was imposed and that the community order which was imposed was at the lower end of the scale available to the court.

79. Mr Geering submitted that the Tribunal should have regard to XXX. He stated that XXX coupled with the Probation Service's recommendation reflected that Dr Anwar was not considered a risk. XXX. Mr Geering invited the Tribunal to assess Dr Anwar as being very low risk in light of XXX, the Probation Service's expert assessment, the court's assessment applying its experience of recidivism, the passage of time since the offending and conviction and the impact of these proceedings.

80. Mr Geering submitted that despite the stress since Dr Anwar's conviction, the proceedings which included GMC, XXX, those of the Health Board, the interim order proceedings and the isolation caused by the Covid-19 there was no repetition of behaviour which gave rise to the conviction. He reminded the Tribunal that the conduct in question ceased voluntarily and prior to the police involvement. He submitted this indicated that Dr Anwar's behaviour was out of character. Mr Geering conceded that Dr Anwar did not have full insight into his behaviour but submitted that he had some insight which continued to develop. He submitted that Dr Anwar had shown genuine remorse, had self-referred to and fully co-operated with his regulator, made full admissions before he was charged, co-operated with the Probation Service and had adopted a policy of total candour with his employers and colleagues all of which were to his credit. Mr Geering referred the Tribunal to the numerous testimonials in support of Dr Anwar including from his professional colleagues, who he said were universal in their support of him.

81. Mr Geering submitted that the hospital wanted and had allowed Dr Anwar back to work, which he stated to be a powerful litmus test for where the public interest lay. He also submitted that The Tribunal was entitled and required to take into account the interim order of conditions which Dr Anwar had been subject to for a period of 16 months. He stated that the public interest would have regard to the significant hardship already suffered as a result of his conduct and the inevitable loss of skills and reputation. He also submitted that erasure would build on hardship already suffered during criminal, regulatory and XXX proceedings and that the sanction of erasure would in all likelihood result in Dr Anwar not being able to practise medicine at all in the future. He submitted that a sanction of suspension for 12 months with a review, struck the appropriate balance in having a significant impact on Dr Anwar but leaving the public in no doubt that his conduct was utterly unacceptable. He further submitted that the sanction of suspension would differentiate Dr Anwar's case from a doctor who sourced and took sexual

gratification from the material which resulted in the conviction.

The Relevant Legal Principles

82. The Tribunal reminded itself that the decision as to the appropriate sanction to impose, if any, was a matter for it, exercising its own independent judgment. In reaching its decision on sanction, the Tribunal had regard to the SG. It bore in mind that the purpose of sanctions was not to be punitive, but to protect patients and the wider public interest, although any sanction imposed may have a punitive effect.

83. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Anwar's interests with the public interest. It considered and 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.

The Tribunal's Determination on Sanction

84. The Tribunal had regard to its findings in respect of the facts admitted and found proved and its resultant findings in respect of misconduct and impairment as well as the submissions on behalf of the GMC and Dr Anwar.

85. The Tribunal considered the legal advice provided which is a matter of record.

Aggravating and Mitigating Factors

86. The Tribunal first identified what it considered to be the mitigating and aggravating factors in this case.

Mitigating Factors

- Dr Anwar did not search for the videos;
- there was no evidence that Dr Anwar gained sexual gratification from any of the videos which gave rise to the conviction;
- a sexual offences rehabilitation order was not imposed by the court following his conviction;
- the viewing of the videos was confined to Dr Anwar's participation in the two WhatsApp chat groups and was time limited. There was no evidence that he sought to view such images either before or since;

- Risk assessments have been undertaken by separate independent bodies including XXX, the Health Board, the Probation Service and Safer Lives all of which have assessed him as being a low risk;
- more than two years have elapsed since the offences and more than one year since the conviction with no evidence of repetition;
- he had insight into his behaviour which continued to develop throughout the proceedings;
- he acknowledged that he had been at fault and accepted that he should not have behaved in the way that he did;
- he had expressed regret, shame and remorse which the Tribunal accepted;
- his employer issued him with a final written warning (as opposed to dismissing him) in respect of the conviction;
- he had been proactive in trying to understand how he came to be in the situation which resulted in his offending;
- he identified coping mechanisms and changed his behaviour;
- he had taken significant steps to remediate his behaviour;
- he continued to be supported by his colleagues and the local community with whom he was open and honest with regard to the nature and content of the videos and the circumstances of his conviction;
- he is of previous good character with no concerns being raised before the events in question or since;
- he had taken steps to keep his medical knowledge and skills up-to-date including working with the hospital on his phased return to work.

Aggravating Factors

- the conviction involved child sex abuse material;
- the convictions were for extremely serious offences including an offence of possession of a Category A photograph of a child;
- he initially denied the offences and only accepted responsibility in the face of incontrovertible evidence;
- he initially sought to blame others for his offending;
- the grotesque nature of the videos in question;
- he was required to sign the sex offenders register until 2025;
- his evidence that watching the videos had no impact on him;
- there were serious breaches of multiple paragraphs of GMP;
- he did not seek appropriate support when experiencing social isolation;

- he was an enthusiastic participant in the group chats where the videos in question were shared and encouraged others in the group to share further offensive and grotesque material;
- he prioritised his personal need to be accepted by his peers over the safeguarding needs of children and vulnerable adults;
- his need to be accepted so easily displaced his moral compass.

No action

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

88. The Tribunal determined there were no exceptional circumstances to justify taking no action in this case. It considered that given the seriousness of the conviction and its findings in respect of impairment, taking no action would not be sufficient, proportionate, or in the public interest.

Conditions

89. The Tribunal next considered whether to impose conditions on Dr Anwar's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable. The Tribunal concluded that no measurable and workable conditions could be formulated in this case given the seriousness of the misconduct found.

Suspension

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

91. The Tribunal considered Mr Geering's submission that the appropriate sanction in this case was one of suspension. The Tribunal had regard to paragraphs 91, 92, 93, 97 (a), (e), (f), and (g) of the SG which state:

'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.'

92. The Tribunal was of the view that Dr Anwar had breached a number of paragraphs of GMP including 1, 27, 47 and 65. In considering the issue of remediation, the Tribunal noted that Dr Anwar had taken significant steps to remediate, that those steps had commenced even before the criminal proceedings had begun and continued up to and including in the course of these proceedings. The steps he had taken included his engagement with Safer Lives and XXX,

undertaking extensive research into toxic masculinity and the impact of child sexual exploitation, applying learnings from his research and XXX. The Tribunal noted Dr Anwar's engagement with the criminal proceedings, the numerous assessments by various independent bodies including statutory bodies, the Health Board and regulatory proceedings. As such the Tribunal was satisfied that in light of Dr Anwar's willingness to and continued engagement there was no evidence that further attempts at remediation were likely to be unsuccessful.

93. The Tribunal also considered the risk of repetition. While the Tribunal in its determination on impairment was concerned as to this risk, that concern was confined to circumstances where Dr Anwar may find himself socially isolated and may resort to participation in chat groups and what he would be willing to tolerate in order to gain acceptance by the group. The Tribunal noted the steps Dr Anwar had taken to address feelings of social isolation, XXX and his newly acquired ways of coping with stress. The Tribunal had regard to the fact there was no evidence of Dr Anwar having searched for material of the type which resulted in his conviction either before the videos in question or since. The Tribunal had regard to Mr Geering's submission that Dr Anwar's involvement in the matters which resulted in his conviction ceased prior to police involvement. The Tribunal was satisfied that there was no evidence of repetition of similar behaviour to that which had resulted in his conviction.

94. The Tribunal considered its findings in respect of Dr Anwar's insight in its determination on misconduct and impairment. The Tribunal remained of the view that Dr Anwar's insight was incomplete despite the period of time since the commission of offences, his conviction and notwithstanding his engagement with professionals. However, the Tribunal, was satisfied that Dr Anwar had developed insight into his behaviour, that development had commenced before his criminal proceedings and continued throughout these proceedings. The Tribunal also had regard to its findings that Dr Anwar had not appeared to have considered the suffering of the animals in the videos. In considering insight and the risk of repetition the Tribunal was satisfied that although Dr Anwar did not have full insight, it did not consider that he posed a significant risk of repeating the behaviour which resulted in his conviction.

95. The Tribunal considered Mr Taylor's submission that Dr Anwar's behaviour was fundamentally incompatible with continued registration. In making its determination on the issue, the Tribunal considered its findings at the impairment stage of the hearing. The Tribunal noted the guidance from SG and case law in respect of criminal convictions and in particular convictions involving the commission of sexual offences.

96. The Tribunal considered that any conviction for sexual offences including those involving child sex abuse materials and the requirement to register as a sex offender seriously undermined public confidence in the profession. It further considered that a conviction of this nature was highly likely to result in a finding of fundamental incompatibility with continued registration. The Tribunal considered that Dr Anwar's conviction coupled with his evidence that he not only viewed the material but found it amusing at the time aggravated the seriousness of the nature of the conviction.

97. The Tribunal had regard to the assessments of Safer Lives, the Probation Service and XXX. It noted the Safer Lives assessment stated:

'The likelihood of these or similar offences recurring seems slight as common indications of risk are absent – he is able to make and maintain intimate relationships, there is no significant trauma history other than his experience of racism and arrest, and the function of the relevant behaviour does not seem to include sexual interest in the image. Risk factors were likely to have been low, even at the time, and are likely further reduced through Dr Anwar's experience of investigation and his learning and reflection from it'

The Probation Service assessment stated:

'Following the application of static general offending risk assessment tools currently used by the National Probation Service, I can confirm that on the Offender Group Reconviction Scale (OGRS 3) tool he is assessed as posing low risk of general re-offending, based on the lack of previous offending. In terms of the risk of serious recidivism, the validated Risk of Serious Recidivism (RSR) assessment tool places him also at a low risk of committing further serious offence.'

XXX

98. The Tribunal balanced the seriousness of Dr Anwar's conviction and the aggravating circumstances against its findings in respect of Dr Anwar's insight and the possibility of further development of insight. It considered the independent assessments of the various bodies and the Tribunal's own assessment as to the risk of repetition, the remediation undertaken and learnings applied. It took account of the evidence that that Dr Anwar did not search for, further share or obtain any sexual gratification from the videos in question. The Tribunal also had regard to the fact that no sexual offences rehabilitation order was imposed by the court on Dr Anwar and there was no evidence of a sexual interest in children or bestial imagery. In considering all of the particular circumstances of Dr Anwar's case, the Tribunal

was persuaded that this was a case which fell just short of fundamental incompatibility with continued registration.

Erasure

99. The Tribunal considered Mr Taylor’s submission that erasure was the only means of protecting the public and fulfilling the statutory overarching objective. The Tribunal had regard to paragraphs, 108, 109 (a), (b), (e), (f), 150, 151, 152 and 153 of SG which state:

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

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

a A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.

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

...

e Violation of a patient’s rights/exploiting vulnerable people (see Good medical practice, paragraph 27 on children and young people, paragraph 54 regarding expressing personal beliefs and paragraph 70 regarding information about services).

f Offences of a sexual nature, including involvement in child sex abuse materials (see further guidance below at paragraphs 151 - 159).

150 Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.

151 Any doctor who has been convicted of, or has received a caution for, a sexual offence listed in Schedule 3 to the Sexual Offences Act 2003 must notify the police (register) under section 80 of the Sexual Offences Act 2003 and may need to undertake a programme of rehabilitation or treatment. Sexual offences

include accessing and viewing, or other involvement in, child sex abuse materials, which involves the exploitation or abuse of a child. These offences seriously undermine patients' and the public's trust and confidence in the medical profession and breach a number of principles set out in Good medical practice (paragraph 65 regarding honesty and integrity, particularly paragraph 47 regarding respecting patients' dignity, and paragraph 27 regarding children and young people).

152 Taking, making, sharing and possessing an indecent image or pseudo-photograph of a child is illegal and regarded in UK society as morally unacceptable. For these reasons, where there is any involvement in child sex abuse materials by a registered doctor the tribunal should consider whether the public interest demands that their registration be affected.

153 While the courts distinguish between degrees of seriousness, any conviction for child sex abuse materials against a registered doctor is a matter of grave concern because it involves such a fundamental breach of the public's trust in doctors and inevitably brings the profession into disrepute. It is therefore highly likely that, in these cases, the only proportionate sanction will be erasure. However, the tribunal should bear in mind paragraphs 20–23 and 61–111 of this guidance, which deal with the options available to it, and the issue of proportionality. If the tribunal decides to impose a sanction other than erasure, it is important that it fully explains the reasons and the thinking that has led it to impose this lesser sanction so that it is clear to those who have not heard the evidence in the case.'

100. The Tribunal considered that Dr Anwar's conviction represented a particularly serious departure from the principles in GMP. The Tribunal found that he failed to act with integrity and within the law and that his conduct and conviction did not justify patients trust in him or the public's trust in the profession. The Tribunal also determined that he failed to consider the needs and welfare of the adults and child in the videos, failed to respect their dignity and privacy and failed to take any steps in the face of evidence that the rights of the individuals in the videos were being abused or denied. The Tribunal considered that individually each failure represented a serious departure from the principles in GMP but when taken together represented a particular serious departure and reckless disregard for the principles in GMP. The Tribunal also considered that this represented a breach of fundamental tenets of the profession.

101. The Tribunal noted that Dr Anwar's conviction involved an offence of a sexual nature including child sex abuse materials. In considering Dr Anwar's breach of paragraph 27 of GMP, the Tribunal noted that although none of the individuals, including the child, in the videos were patients of Dr Anwar, his viewing of the videos and finding humour in them represented a violation of the rights of those individuals including the child. The Tribunal also considered that his viewing of the videos perpetuated the market for child sex abuse images

and that such conduct seriously undermined patients' and the public's trust and confidence in the medical profession.

102. The Tribunal has previously set out its view on whether Dr Anwar's case was fundamentally incompatible with continued registration.

103. The Tribunal noted the SG at paragraph 150 indicated that erasure was likely to be appropriate in cases of sexual misconduct or where a doctor has been required to register as a sex offender as this seriously undermines public trust in the profession. The Tribunal was of the view that Dr Anwar's involvement in the viewing of child sex abuse materials was wholly unacceptable, had resulted in a criminal conviction, had brought the profession into disrepute and had breached fundamental tenets of the profession.

104. The Tribunal noted paragraphs 152 and 153 of SG required the Tribunal to determine whether Dr Anwar's registration should be affected and indicated that in these cases the only proportionate sanction would be erasure.

'153 While the courts distinguish between degrees of seriousness, any conviction for child sex abuse materials against a registered doctor is a matter of grave concern because it involves such a fundamental breach of the public's trust in doctors and inevitably brings the profession into disrepute. It is therefore highly likely that, in these cases, the only proportionate sanction will be erasure.'

105. The Tribunal considered that the decision on whether suspension or erasure was the appropriate sanction was extremely finely balanced. In making its final determination the Tribunal considered the SG in detail, the guidance from case law, the aggravating and mitigating factors, the Tribunal's conclusion that this case fell just short of being fundamentally incompatible with continued registration and the requirement to act proportionately.

106. One of the important factors in the Tribunal's assessment of whether Dr Anwar should be suspended or erased was XXX. This, coupled with the assessment from both Safer Lives and the Probation Service that Dr Anwar was considered a low risk of reoffending, satisfied the Tribunal that erasure in the particular circumstances of this case was neither inevitable nor the only appropriate and proportionate sanction to protect the public interest or fulfil the statutory overarching objective.

107. The Tribunal accepted Mr Geering's submission that Dr Anwar was someone with no sexual interest in children or bestial imagery and who obtained no sexual gratification from

the videos in question and should be distinguished from individuals who search for, gained sexual gratification from and shared images of the nature which led to his conviction. The Tribunal concluded that while convictions involving sexual offences and particularly those involving the possession and viewing of child sex abuse materials were at the most serious end of the scale of misconduct, it did not inevitably mean that erasure was the only appropriate or proportionate sanction in this case.

108. The Tribunal had regard to the sentence imposed by the criminal court. The Tribunal reminded itself that the sentence imposed by the court carried little weight in determining what, if any, sanction should be imposed in these proceedings and that the functions of the court and that the functions of the Tribunal were different. Most relevant to the Tribunal's consideration was the fact that no sexual offences rehabilitation order was imposed on Dr Anwar. This, coupled with the evidence of an absence of sexual interest in children or a sexual gratification from the content of the videos, also satisfied the Tribunal that erasure was not the only sanction available to it.

109. The Tribunal further had regard to the many and varied references provided on behalf of Dr Anwar. The Tribunal was mindful that in cases such as this, testimonials would ordinarily carry less weight than in other types of cases. However, in this particular case, the Tribunal noted that Dr Anwar had the support of clinical colleagues from across the hospital. The third limb of the statutory overarching objective was to maintain proper standards of conduct for members of the profession. It therefore was of note that the very members of the profession whose reputation was damaged by Dr Anwar's conduct and conviction nonetheless chose to provide him with unequivocal support. The Tribunal noted that the support of Dr Anwar's colleagues was provided in full knowledge of the conviction and detail of the content of the videos in question. The Tribunal further noted that the detail of the references related to Dr Anwar's character rather than any particular clinical skills he possessed.

110. The Tribunal also had regard to the need to act proportionately and impose the least restrictive sanction which would protect the public interest. The Tribunal considered that in light of the range of mitigating factors including the fact that Dr Anwar did not search for the images in question, gained no sexual gratification from viewing the videos; the absence of any sexual interest in children or bestial imagery; there being no evidence of his searching for material of the kind which gave rise to his conviction either before his conviction or since; the behaviour which gave rise to his conviction ceasing prior to police involvement, his insight into his behaviour; the steps taken to remediate; the absence of any sexual offences treatment order; the absence of any repetition of behaviour giving rise to the conviction; the support from his colleagues at the hospital; his expressions of shame, regret and remorse and his evidence that he would act differently were he to find himself in a similar situation all

satisfied the Tribunal that a sanction of suspension was the appropriate and proportionate sanction in this case.

111. The Tribunal was of the view that a member of the public in possession of all of the facts of this case would not consider that erasure was the only sanction which would meet the public interest and fulfil the statutory overarching objective. The Tribunal considered that the sanction of suspension, in the particular circumstances of this case, would mark the seriousness of the misconduct and protect public confidence in the profession. The Tribunal also considered that a sanction of suspension would send a message to members of the profession that any involvement in the viewing or possessing of child sexual exploitation material was wholly unacceptable and would seriously put at risk their continued registration. The Tribunal was also of the view that a period of suspension would demonstrate to Dr Anwar how far below the standards of behaviour expected of doctor his conduct fell.

112. The Tribunal did not consider, that in the particular circumstances of this case, the sanction of erasure was *necessary* to maintain public confidence in the profession or maintain the high standards of the profession.

Period of Suspension

113. Having determined that a period of suspension was the appropriate and proportionate sanction, the Tribunal went on to consider the appropriate length of suspension. In doing so, it had regard to paragraph 100 of the SG which states:

'100 The following factors will be relevant when determining the length of suspension:

a the risk to patient safety/public protection

b the seriousness of the findings and any mitigating or aggravating factors (as set out in paragraphs 24–60)

c ensuring the doctor has adequate time to remediate.'

114. The Tribunal accepted that no direct harm had come to patients as a result of Dr Anwar's conviction. However, in light of the seriousness of the findings and the identified aggravating and mitigating factors the Tribunal determined to impose a period of suspension of 12 months on Dr Anwar. It considered that a 12-month suspension was the minimum period to mark the seriousness of the misconduct found and would send a signal to Dr

Anwar, the profession and the public about what is regarded as behaviour unbefitting a registered doctor. The Tribunal also considered that a 12-month suspension would ensure that Dr Anwar had adequate time further develop his insight and undertake further remediation.

Review Hearing

115. The Tribunal determined to direct a review of Dr Anwar's case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Anwar to demonstrate that he has developed further insight into his behaviour and undertaken further remediation.

116. It may assist the reviewing Tribunal if Dr Anwar attends the review hearing and provides that Tribunal with:

- Evidence of how his insight has developed further;
- Evidence of Dr Anwar putting into practice his various coping mechanisms, for example, any continuing engagement with relevant professionals and details of any updated assessments they may have made in relation to his insight, remediation and future risk;
- A further reflective statement clearly demonstrating any action taken and addressing why he missed such obvious signs in respect of the illegality of the content or the necessity to safeguard the child and why this element of his behaviour was so lacking. A future tribunal would also benefit from evidence of Dr Anwar's reflections on the animal welfare issues raised in the case;
- evidence that there has been no repetition of the conduct giving rise to the conviction;
- evidence of continuing professional development and how he has kept his medical skills and knowledge up to date;
- any other relevant evidence he wishes to present to assist the reviewing tribunal.

Determination on Immediate Order - 21/05/2021

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

Submissions

118. On behalf of the GMC, Mr Taylor submitted that, given the seriousness of the Tribunal's findings and the impact on public confidence in the profession, an Immediate Order of suspension was necessary.
119. On behalf of Dr Anwar, Mr Christopher Geering submitted that the public interest was protected by the substantive order imposed and therefore it was not necessary for the Tribunal to impose an Immediate Order on Dr Anwar's registration.

The Tribunal's Determination

120. The Tribunal had regard to the SG and considered the following paragraphs relevant:

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

177 Where the tribunal has directed conditional registration as the substantive outcome of the case, it may impose an immediate order of conditional registration. Where the tribunal has directed suspension or erasure as the substantive outcome of the case, it may impose an immediate order to suspend registration.

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

121. In reaching its decision, the Tribunal exercised its own judgement, and took account of the principle of proportionality. The Tribunal bore in mind that it may impose an Immediate Order where it is satisfied that it is necessary for the protection of members of the public, is in the public interest, or is in the best interests of the practitioner.

122. The Tribunal had regard to the seriousness and nature of the misconduct. It considered that it was in the public interest that a doctor against whom such findings of seriousness were made should not be permitted to practise on an unrestricted basis pending the coming into force of the substantive order.

123. The Tribunal determined that in light of the gravity of its findings, and in the particular circumstances of this case, an Immediate Order of suspension was appropriate and

necessary. It determined that it would be necessary for the protection of members of the public, in the public interest, and to uphold and maintain proper professional standards. The Tribunal considered that public confidence in the profession would be undermined if an Immediate Order were not imposed.

124. This means that Dr Anwar's registration will be suspended from today. The substantive direction, as already announced, will take effect 28 days from today, 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.

125. The interim order imposed on Dr Anwar's registration will be revoked when the immediate order takes effect.

126. That concludes this case.

Confirmed
Date 21 May 2021

Miss Megan Larrinaga, Chair

ANNEX A – 16/04/2021

Application to Adjourn

127. On the second day of this MPTS hearing listing, the Tribunal, of its own volition, under Rule 29(2) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'), determined to adjourn. This Rule 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.”

128. The Tribunal was not in a position to hand down its determination on Sanction, despite the Tribunal's best efforts. The Tribunal considered that there was insufficient time to conclude this hearing. It found that it would need one further day to conclude the hearing, which adjourned following submissions on sanction.

129. Neither Mr Taylor nor Mr Geering opposed the adjournment.