

PUBLIC RECORD

Dates: 11/10/2021 – 13/10/2021
09/05/2022 – 11/05/2022
24/10/2022 – 01/11/2022
11/01/2023 - 12/01/2023

Medical Practitioner’s name: Dr Noel William SARDAR

GMC reference number: 7487901

Primary medical qualification: MUDr 2014 Charles University in Prague - Faculty of Medicine in Hradec Kralove

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

Summary of outcome

Erasure

Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Paul Moulder (11/10/2021 – 13/10/2021) (09/05/2022 – 11/05/2022) (24/10/2022 – 01/11/2022) Mr David Raff (11/01/2023 - 12/01/2023)
Lay Tribunal Member:	N/A
Medical Tribunal Member:	Dr Shazad Amin, Dr Prashanth Nandhabalan
Tribunal Clerk:	Ms Anne Bhati (11/10/2021 – 13/10/2021) (09/05/2022 – 11/05/2022)

**Record of Determinations –
Medical Practitioners Tribunal**

	Mr Josh Dayco (24/10/2022 – 01/11/2022) (11/01/2023 - 12/01/2023)
--	---

Attendance and Representation:

Medical Practitioner:	Not present and not represented (11/10/2021 – 13/10/2021) Present and represented (09/05/2022 – 11/05/2022) (24/10/2022 – 01/11/2022) (11/01/2023 - 12/01/2023)
Medical Practitioner’s Representative:	Mr Russell Davies, Counsel, instructed by Stephensons Solicitors (09/05/2022 – 11/05/2022) Ms Harriet Tighe, Counsel, instructed by Stephensons Solicitors (24/10/2022 – 01/11/2022) (11/01/2023 - 12/01/2023)
GMC Representative:	Mr Alan Taylor, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts in relation to conviction - 09/05/2022

1. The Tribunal agreed, in accordance with Rule 41 of the Rules, that this hearing should be heard part in private as matters under consideration relate to XXX. This determination will also be read in private. However, as this case concerns Dr Sardar’s conviction a

redacted version will be published at the close of the hearing with those matters relating to XXX removed.

Background

2. Dr Sardar qualified in 2014 from the Charles University in Prague, Faculty of Medicine in Hradec Kraloveand, Czech Republic. At the time of the events Dr Sardar was practising as a middle-grade psychiatrist at the Forge Centre ('the Centre'), Port Talbot, and on call at Neath Port Talbot and Princess of Wales Hospital ('the Hospital'), from 2 January 2019 to 20 February 2019. He was employed through an agency, MEDACS.
3. The allegation that has led to Dr Sardar's hearing can be summarised as, on 17 December 2019, at Swansea Crown Court, Dr Sardar was convicted of two counts of stalking without fear/alarm/distress. It is alleged that on 14 January 2020, Dr Sardar was sentenced to 20 weeks imprisonment suspended for 12 months, a restraining Order to protect Ms A and Ms B for 5 years and 30 days Rehabilitation Activity Requirement.
4. The conviction related to two cases of harassment against two separate victims, Ms A and Ms B. Both complainants were known to mental health services in Port Talbot, Swansea and had attended the Centre. Both patients had Emotionally Unstable Personality Disorder and suffered trauma in their childhoods. Both Ms A and Ms B had only known Dr Sardar in a professional capacity. Dr Sardar contacted Ms A and Ms B using their personal mobile phone numbers and attended their home addresses without adequate clinical reason.
5. The following information was taken from police statements exhibited in the hearing bundle.

Ms A

6. Ms A first met Dr Sardar when she had been admitted to the Hospital in July 2018 during a previous crisis, and again during an appointment at the Hospital on 21 January 2019.
7. Dr Sardar, called Ms A's personal mobile phone number from a private number at 7.47pm on 18 February 2019. During the call Dr Sardar stated that he had telephoned to update her on a trauma counselling referral. Dr Sardar said that he had a few hours off work and asked Ms A if she would show him what he could do in Port Talbot to kill some time. Ms A mentioned a coffee shop and he asked her to show him where it was. Ms A stated to Police that she knew this was inappropriate but she felt unable to say 'no'. Dr

Sardar arrived to meet her at her location within five to 10 minutes. Dr Sardar drove her to a coffee shop and they were there for one hour discussing her mental health and personal matters. Dr Sardar suggested going somewhere to see a film, Ms A repeatedly told Dr Sardar that she wanted to go home. Dr Sardar drove them to a cinema car park and he went inside to see what films were on, Ms A stood by the door of the cinema. She stated that much to her relief no films were showing at that time, 21:40, and Dr Sardar subsequently drove Ms A home. Ms A described starting to feel '*scared*' and concerned for her safety. Whilst in the car, Dr Sardar had asked Ms A if he could help build furniture for her. Ms A described feeling anxious since she felt that Dr Sardar was trying to '*invite himself into my apartment*'. He mentioned he would bring a film for them to watch together. Ms A did not respond to this and hurriedly left the vehicle and entered her home.

8. On 19 February 2019, Ms A received a missed call from a withheld number. The same day she received a text message from Dr Sardar and a further call from a withheld number.
9. Ms A stated to Police that she felt that Dr Sardar had used his position in obtaining her confidential contact details, he had acted unprofessionally and without integrity. She believed that he had targeted her due to her mental health condition, leaving her feeling vulnerable and fearful for her safety.

Ms B

10. Ms B, on 22 January 2019 attended the Centre for an appointment with Dr Sardar to review her medication. On 15 and 18 February 2019, she received two missed calls from a withheld number.
11. At 20:24 on 19 February 2019, Ms B answered a withheld number call from Dr Sardar. Dr Sardar informed her that he was on call that evening and wondered if he could conduct a home visit to see how she had got on with her medication. Ms B agreed and Dr Sardar arrived at her home at 20:30. Ms B told Police that she was shocked that he arrived very quickly after the phone call. Dr Sardar sat very close to her, making her feel uncomfortable and began to ask personal questions and the whereabouts of her children. He discussed his personal problems and matters unrelated to her mental health. She felt that his behaviour was unprofessional. Ms B described to Police overhearing a phone call made by Dr Sardar in which he was told that he was not on call, which concerned her. He asked to interview her for an article, and she '*felt pressurised into saying yes*' due to her anxiety. He also started recording her on his phone.

12. Dr Sardar left Ms B's address at 23:15. That evening Ms B contacted the Hospital to explain the incident. The person at the Hospital advised Ms B that Dr Sardar's conduct was not normal and took details. They advised Ms B to contact the Forge Centre the next day.
13. Ms B contacted the Forge Centre on 20 February 2019. She later received a phone call from the health board advising that the incident was not part of their practice, that Dr Sardar was going to be suspended from work and he had been told he was not to have contact with the staff or patients of the Forge Centre.
14. There was also a Police statement from Mr C, locality manager for mental health and learning difficulties in Neath Port Talbot. He stated that he met with Dr Sardar with his consultant at 13:00 on 20 February 2019. At this meeting, they terminated his employment and instructed him not to contact any member of staff or patients.
15. At around 17:45 on 20 February 2019, Ms B was on the phone to a friend when she saw a vehicle pass her address. A few minutes later the car drove past again, and Ms B saw Dr Sardar driving the vehicle. After the car drove past a third time, Ms B told her friend who came by and followed the vehicle. Ms B then called the police.
16. Dr Sardar parked his car opposite her address and got out of the vehicle. Ms B then heard a knock on the door. Dr Sardar left, came back and knocked again, and then went away.
17. On 21 February 2019, Ms B received a text from Dr Sardar that contained links for support for adults. She did not respond to this message. Ms B stated to Police that she felt her mental health had suffered from the incident, which had worsened her anxiety and depression. She felt that she had lost trust in the people meant to support her and that she had been targeted for her vulnerabilities.
18. When interviewed under caution by Police, Dr Sardar stated that he had not intended to cause any alarm or distress. He admitted having contacted the two complainants, but disputed some of the facts alleged by Ms A and Ms B. He stated that he had contacted them about a support group called 'Impact' and he had previously known Ms A personally. Police obtained further evidence in rebuttal of the doctor's case.
19. In the trial, which commenced on 16 December 2019 Dr Sardar entered guilty pleas to two offences contrary to section 2A of the Protection from Harassment Act 1997, after

Ms A but before Ms B had given evidence. The judge ordered a Pre-sentence Report and the trial was adjourned to 14 January 2020 for sentence. At the sentencing hearing the judge imposed a sentence of 20 weeks' imprisonment suspended for 12 months, Restraining Orders to protect Ms A and Ms B and a 30 days' Rehabilitation Activity Requirement.

Hearing

20. At the MPT hearing which commenced on 11 October 2021, Dr Sardar had not been in attendance, and was not represented. The hearing which commenced on 9 May 2022, Dr Sardar was in attendance and legally represented.

The Outcome of Applications Made during the Facts Stage

11 to 13 October 2021

21. Mr Taylor, on behalf of the GMC, made an application under Rules 15 and 40 of the General Medical Council (Fitness to Practise) Rules 2004, ('the Rules') and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended) for the Tribunal to find that Dr Sardar had been properly served with notification of this hearing. The Tribunal granted his application. Mr Taylor also applied for the Tribunal to proceed to hear the case in Dr Sardar's absence. The Tribunal also granted Mr Taylor's application to proceed in the absence of Dr Sardar, pursuant to Rule 31. The Tribunal's decisions and reasons relating to both applications are contained in Annex A.
22. During the course of its deliberation on facts the Tribunal was made aware of an email from Dr Sardar. XXX.

9 and 10 May 2022

23. The Tribunal reconvened the hearing with Dr Sardar in attendance and legally represented by Mr Russell Davies, Counsel. The Tribunal granted Mr Davies' application to adjourn the hearing pursuant to Rule 29(2) of the Rules. The Tribunal's full decision can be found at Annex C, together with the Tribunal's case management directions at Annex D.

The Allegation and the Doctor's Response

24. The Allegation made against Dr Sardar is as follows:

1. On 17 December 2019, at Swansea Crown Court, you were convicted of stalking without fear / alarm / distress, contrary to section 2A of the Protection from Harassment Act 1997 x 2. **To be determined**
2. On 14 January 2020 you were sentenced to:
 - a. 20 weeks imprisonment suspended for 12 months; **To be determined**
 - b. a Restraining Order to protect Ms A and Ms B for 5 years; **To be determined**
 - c. 30 days Rehabilitation Activity Requirement. **To be determined**

Documentary Evidence

25. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:
- A screenshot of Dr Sardar’s address and email address registered with the GMC;
 - Email to Dr Sardar with Rule 34(9) letter, dated 29 July 2021;
 - A Notice of Allegation (‘NOA’) email from the GMC to Dr Sardar attaching Rule 15 allegations, dated 27 August 2021, and the delivery receipt for this email;
 - A letter to Dr Sardar attaching the NOA, dated 27 August 2021, and proof of service for this letter;
 - Correspondence by email and letter, from MPTS to Dr Sardar, attaching a copy of the NOH, and proof of service for this;
 - Email from Dr Sardar confirming receipt of NOH, dated 10 September 2021
 - Certificate of Conviction, dated 18 February 2020;
 - Email from Swansea Crown Court dated 14 June 2021;
 - MG5 Case Summary;
 - Police statements taken from Ms A in April and July 2019;
 - Police statements taken from Ms B in February and April 2019;
 - Police statements taken from Mr C, locality manager for mental health and learning difficulties in Neath Port Talbot, one in May 2019 and one undated;
 - Police statements taken from Dr D, Dr Sardar’s line manager at the Centre, in April and November 2019;
 - Police statement taken from Ms E, friend of Ms B, in April 2019;
 - Transcript of police interview with Dr Sardar, dated 27 April 2019;

- Transcripts from Swansea Crown Court, dated 16 December 2019 and 14 January 2020 respectively;
- Email from Dr Sardar dated 8 October 2021;
- XXX of Dr Sardar, various dates.

The Admitted Facts

26. At the reconvened hearing on 9 May 2022, although the Tribunal had heard the GMC opening and retired to deliberate, it had not delivered its findings of fact. The Tribunal decided to return to the facts stage for the Allegation to be put to Dr Sardar.
27. Through his counsel, Mr Davies, Dr Sardar made admissions to the Allegation in its entirety in accordance with Rule 17(2)(d) the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced the Allegation as admitted and found proved.

The Tribunal's Overall Determination on the Facts

28. The Tribunal has determined the facts as follows:
1. On 17 December 2019, at Swansea Crown Court, you were convicted of stalking without fear / alarm / distress, contrary to section 2A of the Protection from Harassment Act 1997 x 2. **Admitted and found proved**
 2. On 14 January 2020 you were sentenced to:
 - a. 20 weeks imprisonment suspended for 12 months; **Admitted and found proved**
 - b. a Restraining Order to protect Ms A and Ms B for 5 years; **Admitted and found proved**
 - c. 30 days Rehabilitation Activity Requirement. **Admitted 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 Facts XXX and Impairment - 01/11/2022

29. This determination will be handed down in private. However, as this case concerns Dr Sardar's conviction, a redacted version will be published at the close of the hearing with those matters relating to XXX removed.

Background

30. The Tribunal had already considered and handed down a written determination on facts in relation to Dr Sardar's conviction allegations. As a result of granting the Joinder Application made by the GMC on 24 October 2022, the Tribunal considered the consolidated Allegation provided by the GMC. Therefore, this determination on facts will refer to the consolidated Allegation, including the allegations concerning XXX.

31. XXX

The Allegation and the Doctor's Response

32. The consolidated Allegation made against Dr Sardar is as follows:

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

1. On 17 December 2019, at Swansea Crown Court, you were convicted of stalking without fear / alarm / distress, contrary to section 2A of the Protection from Harassment Act 1997 x 2.

Admitted and Found Proved

2. On 14 January 2020 you were sentenced to:
 - a. 20 weeks imprisonment suspended for 12 months;
Admitted and Found Proved
 - b. Restraining Order to protect Ms A and Ms B for 5 years;
Admitted and Found Proved
 - c. 30 days Rehabilitation Activity Requirement.
Admitted and Found Proved

3. XXX

a. XXX

b. XXX

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

- a. conviction(s) in respect of paragraphs 1 to 2;
To be determined
- b. XXX

The Admitted Facts

33. On 9 May 2022, through his Counsel, Mr Davies, Dr Sardar made admissions to the entirety of the Allegation in relation to his conviction, 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 these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.
34. XXX

DETERMINATION ON IMPAIRMENT

35. In light of Dr Sardar’s admissions to the Allegation, the Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts found proved, Dr Sardar’s fitness to practise is impaired by reason of conviction XXX.

The Outcome of Applications Made during the Impairment Stage

36. On 24 October 2022, the Tribunal granted the GMC’s joinder application made pursuant to Rule 32 of the Rules. (Annex E)

The Evidence

37. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows.
38. On behalf of the GMC from the following witnesses:
 - XXX;
 - XXX.
39. Dr Sardar provided his witness statement dated 6 May 2022. Dr Sardar also gave oral evidence at this stage of the hearing. In addition, the Tribunal received evidence from

the following witnesses on Dr Sardar's behalf:

- Dr F, XXX, by video link;
- Mrs G, Dr Sardar's wife, by video link;

40. The Tribunal also received the following:

- XXX;
- Email correspondence between the GMC and MPTS Case Management;
- GMC's Joinder Application, submissions and proposed consolidated Allegation;
- Dr Sardar's reflection on his criminal convictions and XXX;
- Letters from Ms H, (undated) and Ms I, XXX dated 3 May 2022;
- Various character references for Dr Sardar;
- XXX report from Dr F dated 9 July 2022;
- XXX report from Dr J dated 18 July 2022;
- Statement of Mr G;
- Email correspondence from Mr K, XXX;
- Two versions of Leaflets relating to Dr Sardar's project, known as 'Impact'.

Submissions

Submissions on behalf of the GMC

41. Mr Taylor, Counsel, submitted that Dr Sardar's fitness to practise is impaired by reason of his conviction XXX. Mr Taylor submitted that all three limbs of the overarching objective apply in this case. He referred the Tribunal to the relevant case law. Mr Taylor also directed the Tribunal to the relevant paragraphs of Good Medical Practice (2013 edition) (GMP) and the GMC's guidance document 'Maintaining a professional boundary between you and your patient' (2013).

42. In relation to the conviction, Mr Taylor referred the Tribunal to the background of Dr Sardar's conviction allegations. He submitted that Dr Sardar admitted these factual allegations. Mr Taylor also referred the Tribunal to the Certificate of Conviction in this case and submitted that it provides conclusive evidence of the offences committed by Dr Sardar. Mr Taylor submitted that Dr Sardar targeted two highly vulnerable female patients with sexual motivation. He said that Dr Sardar inappropriately obtained both Patient A and B's personal details from their medical records. Mr Taylor referred the

Tribunal to the evidence of both Patient A and B and submitted that there had been severe emotional effects on these victims and a clear breach of professional boundaries. He submitted that Dr Sardar's actions affected Patient A and B's mental health and their daily lives.

43. Mr Taylor submitted that Dr Sardar continues to deny the underlying facts of his conviction and that he does not accept responsibility for his actions. Mr Taylor referred the Tribunal to the Judge's sentencing remarks along with Dr Sardar's position, set out in his written reflections on the index offence provided for this hearing, that he could not rule out the possibility that there was a sexual component to his motivations. Mr Taylor submitted that Dr Sardar only adopts that position as a result of Dr F's expert opinion that a sexual motivation cannot be ruled out. Mr Taylor also submitted that Dr Sardar's focus is on himself and his future. Dr Sardar has not demonstrated genuine insight on the impact of his conduct to his victims and to the reputation of the profession. He added that Dr Sardar remains committed to his version of events as set out in his statement of 6 May 2022, has not accepted the version of events set out by Patient A and B and remained in denial.
44. Mr Taylor reminded the Tribunal that this is a conviction case, where the Tribunal will need to take into account not only the harm caused to Patient A and B, but also the need to reaffirm standards of professional conduct and to maintain public confidence in the profession. Mr Taylor submitted that a finding of impairment is necessary to uphold proper professional standards in the profession and that a properly informed member of the public would be shocked and appalled if a finding of impairment is not found in this case.

45. XXX

46. XXX

Submissions on behalf of Dr Sardar

47. Ms Tighe, Counsel, submitted that Dr Sardar concedes that his fitness to practise is currently impaired by reason of his conviction XXX.

48. XXX

49. In relation to Dr Sardar’s conviction, Ms Tighe submitted that Dr Sardar conceded that the Tribunal may conclude that he is impaired on public interest grounds. Ms Tighe said that Dr Sardar’s position has evolved, as demonstrated by entering a guilty plea in relation to the trial involving Patient A and B. She stated that he was on a ‘journey’ to understand what he did was wrong. Ms Tighe submitted that Dr Sardar accepted that he should have not contacted Patient A and B and that he had crossed professional boundaries. Ms Tighe also submitted that Dr Sardar had expressed his remorse for his actions both in oral and written evidence. She said that Dr Sardar is ashamed of his behaviour and described his actions as ‘stupid, dreadful and completely out of order’. Ms Tighe submitted that Dr Sardar has genuine remorse upon the impact on Patient A and B. Ms Tighe referred the Tribunal to various relevant testimonials provided for Dr Sardar.
50. Ms Tighe submitted that Dr Sardar has been through a process of developing insight and understanding concerning his conviction, and Dr Sardar now accepts that sexual motivation could have been present. She said that this is an isolated incident, and that Dr Sardar had an unblemished medical career prior to his convictions. Ms Tighe also said that there had been no evidence of repetition in this case.

51. XXX

The Relevant Legal Principles

52. 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.
53. The Tribunal noted that reaching a determination on impairment is a two-stage process. The Tribunal must first determine whether the GMC has established the statutory ground of conviction, XXX. If the Tribunal found XXX ground satisfied, it should go on to consider whether Dr Sardar’s fitness to practise is currently impaired as a consequence.
54. In this case, where the Tribunal was considering impairment on the grounds of conviction XXX, the Tribunal must determine whether Dr Sardar’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, the likelihood of repetition XXX.

55. The Tribunal should also consider whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment was not made in the particular circumstances.
56. The parties were in agreement that the Tribunal was bound by the court's findings in relation to the conviction, as explained in the prosecution opening and the judge's sentencing remarks. The Chair advised the Tribunal that as a result of the following cases, the Tribunal could not consider evidence which was inconsistent with the underlying facts of the convictions: *Kirk v RCVS [2004] UKPC 4*, *GMC v Spackman [1043] AC 627*, *Wray v General Osteopathic Council [2020]*, *Achina v GPhC [2021] EWHC 415 (Admin)*.

The Tribunal's Determination

Impairment - Conviction

57. The Tribunal firstly determined whether the statutory ground of conviction had been established based on the documentary evidence provided.
58. The Tribunal was satisfied that the Certificate of Conviction is sufficient evidence that the statutory ground of conviction has been met. In addition, the convictions were admitted by Dr Sardar. The Tribunal acknowledged it is bound by the Judge's sentencing remarks and prosecution opening. The Tribunal considered the circumstances surrounding Dr Sardar's conviction at Swansea Crown Court on 17 December 2019. Dr Sardar was convicted of stalking without fear/alarm/distress, contrary to section 2A of the Protection from Harassment Act 1997 x 2. On 14 January 2020, Dr Sardar was sentenced to 20 weeks imprisonment suspended for 12 months, a Restraining Order to protect Ms A and Ms B for 5 years and 30 days Rehabilitation Activity Requirement.
59. The Tribunal considered that Dr Sardar's conviction is serious and that it involved two patients who were under his own care. The Tribunal noted that these patients were vulnerable, had a diagnosis of emotionally unstable personality disorder, had suffered trauma in their childhoods and neither had social support networks. The Tribunal also considered that Dr Sardar had breached professional boundaries in obtaining personal information and in making inappropriate suggestions.
60. The Tribunal accepted XXX.

61. XXX

62. XXX

63. XXX

64. XXX

65. XXX

66. XXX

67. The Tribunal noted that there are discrepancies between Dr Sardar's evidence and the patients as to the detail of what had occurred in relation to Patient A and B. For example, Dr Sardar disputed the accounts as to how he obtained the personal information of Patient A and B. In addition, his evidence differed over what exactly was discussed between Dr Sardar and each patient. Dr Sardar told the Tribunal that he was in contact with both Patient A and B because he wanted their assistance with his Impact Counselling project. However, neither Patient A nor B recalled any discussion of the Impact project.

68. XXX

69. The Tribunal noted that the learned Judge at the Crown Court had specifically directed that the prosecution opening and the sentencing remarks be sent to the GMC. The Tribunal noted that the caselaw, including *Kirk v RCVS [2004] UKPC 4*, *GMC v Spackman [1043] AC 627* and *Wray v General Osteopathic Council [2020] EWHC 3409* makes clear that the Tribunal cannot entertain evidence which is inconsistent with the conviction and cannot carry out a re-trial of the issues. It should consider the factual matrix, as indicated in the judge's sentencing remarks: *Achina v GPhC [2021] EWHC 415 (Admin)*. Therefore, the Tribunal is bound by the findings in the Crown Court. It had to take into account the facts as set out in the prosecutor's opening, the sentencing remarks, which were based on the prosecution evidence adduced. The Tribunal thus accepted the Judge's sentencing remarks that Dr Sardar's behaviour was sexually motivated.

70. The Tribunal acknowledged that Dr Sardar has shown remorse, had apologised and recognised the effects of his actions on Patient A and B. However, the Tribunal considered that he has not shown sufficient insight into his conviction. XXX.
71. In his witness statement to the Tribunal, dated 06 May 2022, Dr Sardar had stated, with reference to the Judge’s sentencing remarks and sexually motivated behaviour, that *“this could not be further from the truth. My actions with Mrs A and Mrs B were misguided and inappropriate, but at no stage were they sexually motivated.”*
72. The Tribunal noted that Dr Sardar now accepts, as set out in his written reflections on the criminal convictions, that sexual motivation may be a possibility, although his full statement in this regard was *“I don’t completely understand the XXX I was going through at that time. I am unable to rule out possibility that there was a sexual component to them given how XXX”*. In his oral evidence, he stated that he was *“unable to rule out a sexual motive and accepted his behaviour could have been seen as sexually motivated”*.
73. XXX
74. XXX
75. XXX
76. The Tribunal took into account that it was bound by the facts underlying the conviction, which had not been appealed, and the Judge’s sentencing remarks. The learned Judge had stated that he considered that Dr Sardar’s actions had been ‘sexually motivated’. XXX and Dr Sardar himself accepted this was a possibility. XXX.
77. Having read Dr Sardar’s reflections on the criminal convictions document and heard him give evidence, the Tribunal considered that Dr Sardar still had further insight to develop into this aspect of stalking behaviour. The Tribunal also noted that most of Dr Sardar’s reflection focuses on himself as an individual. He did not provide any particular reflections on the effect of his conduct to the reputation of the profession.
78. Overall, the Tribunal considered that Dr Sardar lacks insight into the motivations behind his behaviour and that, while that remains the case, it infers that there is a risk of repetition in this case.

79. The Tribunal considered that the following paragraphs of GMP are 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.

2 Good doctors work in partnership with patients and respect their rights to privacy and dignity. They treat each patient as an individual. They do their best to make sure all patients receive good care and treatment that will support them to live as well as possible, whatever their illness or disability.

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

50 You must treat information about patients as confidential. This includes after a patient has died.

53 You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.

80. The Tribunal also considered the following paragraphs from Maintaining a professional boundary between you and your patient guidance (2013 edition) are engaged in this case.

1 In Good medical practice we say:

53 You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.

3 Trust is the foundation of the doctor-patient partnership. Patients should be able to trust that their doctor will behave professionally towards them during consultations and not see them as a potential sexual partner.

4 You must not pursue a sexual or improper emotional relationship with a current patient.

11 Some patients may be more vulnerable than others and the more vulnerable someone is, the more likely it is that having a relationship with them would be an abuse of power and your position as a doctor.

81. The Tribunal had regard to paragraph 76 of the judgment in the case of *CHRE v NMC & Paula Grant [2011] EWHC 927 (Admin)*, in which Mrs Justice Cox set out the helpful and comprehensive approach of Dame Janet Smith in her 5th Shipman Report to determining issues of impairment. At paragraph 25.67 of the Shipman Report, she identified the following as an appropriate test for panels considering impairment of a doctor's fitness to practise.

'Do our findings of fact in respect of the doctor's misconduct...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.'*

82. In the present case, the Tribunal considered that limbs (a), (b) and (c) are engaged. It was clear that Patient A and B had suffered emotional harm due to the events and the Tribunal had found a risk of repetition. The conduct involved in the convictions did bring the profession into disrepute and ran contrary to the fundamental tenets, set out in GMP, paragraphs 1, 2 and 53.

83. The Tribunal noted the actions of Dr Sardar with Patient A, in engaging in personal discussion at a café meal and Patient B's evidence that Dr Sardar had mentioned setting up future meetings with her. It considered that he appeared to be trying to establish an improper emotional relationship and this clearly breached the guidance in the GMC boundaries guidance.

84. Having found that Dr Sardar lacks insight and therefore a risk of repetition of the offending behaviour in 2019, the Tribunal determined that Dr Sardar's fitness to practise is impaired by reason of the convictions.

85. In addition, however, the Tribunal also considered that, in the circumstances of the case, a finding of impaired fitness to practise is required in order to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment was not made in the particular circumstances of the case. It decided that members of the public would be very concerned in a case where a doctor had been convicted of these offences.

86. In all of the circumstances, the Tribunal determined that Dr Sardar's fitness to practise is impaired by reason of his conviction.

XXX

87. XXX

88. XXX

89. XXX

90. XXX

91. XXX

92. XXX

93. XXX

94. Therefore, the Tribunal determined that Dr Sardar's fitness to practise is currently impaired XXX by his convictions.

Determination on Sanction - 12/01/2023

95. Having determined that Dr Sardar's fitness to practise is impaired by reason of conviction XXX, 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

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

Submissions

On behalf of the GMC

97. Mr Taylor, Counsel, submitted that erasure is the appropriate and proportionate sanction in this case. Mr Taylor referred the Tribunal to relevant paragraphs of the Sanctions Guidance (November 2020 edition) ('the SG') and submitted that the Tribunal should only depart from the SG with very good reason. Furthermore, Mr Taylor also referred the Tribunal to the relevant case law in this case, the Tribunal's determination on impairment and the sentencing remarks from Judge Thomas KC.
98. Mr Taylor submitted that all three limbs of the overarching objective are engaged in this case. He submitted that the mitigating factors in this case are that Dr Sardar had no previous fitness to practise history XXX. However, Mr Taylor submitted that, in this case, there are particularly serious features. He said that Dr Sardar targeted two vulnerable female patients for his own sexually motivated purposes and that Dr Sardar had grossly abused his trust as a doctor in obtaining Patient A and Patient B's personal details from their medical records. With respect to Patient B, Mr Taylor submitted that, as a pretext for visiting her, Dr Sardar had told her that he was on-call and would undertake a home visit to see how Ms B was getting on with her medication when that was not the case. Moreover, Dr Sardar had indicated that he wished to interview Patient B again, as a pretext for pursuing an improper relationship. Mr Taylor emphasised the very severe effect of his breach of professional boundaries on both Patient A and Patient B.
99. Mr Taylor submitted the following as aggravating factors in this case: Dr Sardar's abuse of his professional position as a doctor; lack of insight; risk of repetition and Dr Sardar's sexually motivated conduct. Mr Taylor asked the Tribunal to treat the references and testimonials provided on behalf of Dr Sardar with a degree of caution. He submitted that the authors of these references and testimonials were not in several cases aware of the entirety and specificity of the allegations against Dr Sardar.

100.XXX.

101. Mr Taylor submitted that there are no exceptional circumstances in this case such that it would be appropriate to take no action. He also submitted that the circumstances surrounding Dr Sardar's conviction are serious and given the gravity of this case, a sanction of conditions would be insufficient, inappropriate and disproportionate. Mr Taylor submitted that a period of suspension would be inadequate to fulfil the statutory overarching objective of protecting the public. He said that Dr Sardar exploited two extremely vulnerable patients for his own purposes, misused their personal information and put his own personal needs above their welfare and that his actions in so doing were sexually motivated. Therefore, Mr Taylor submitted that a sanction of erasure would be the appropriate and proportionate sanction in this case given the multiple aggravating factors in this case, including Dr Sardar's lack of insight and risk of repetition.

On behalf of Dr Sardar

102. Ms Tighe, Counsel, submitted that a period of suspension is the appropriate sanction in this case. Ms Tighe also referred the Tribunal to its determination on impairment, relevant paragraphs of the SG and the sentencing remarks from Judge Thomas KC.

103. XXX

104. Ms Tighe submitted that Dr Sardar had been on a journey of developing insight in terms of understanding why his actions were wrong and understanding their impact on both Patient A and Patient B. Ms Tighe referred the Tribunal to Dr Sardar's reflective piece, in which he sets out that it was inappropriate for him to cross professional boundaries with Patient A and Patient B. Dr Sardar also indicated that his judgement and insight were impaired. Ms Tighe also referred the Tribunal to Dr Sardar's oral evidence, saying that Dr Sardar acknowledged that he should never have contacted the patients and that Dr Sardar accepted that his actions were inappropriate.

105. In terms of Dr Sardar's insight into the impact of his actions had upon the public confidence in the profession, Ms Tighe submitted that in light of the damage he had caused to the reputation of the profession, Dr Sardar had stated that he no longer wished to practise in psychiatry and wanted to focus on a less patient facing role such as microbiology or pathology. In terms of Dr Sardar's insight into the reasons behind his conviction, Ms Tighe submitted that this is not a situation where Dr Sardar lacks insight. She said rather that this is a situation where Dr Sardar's insight is incomplete and that he

is continuing to develop insight into the inappropriateness of his misconduct. She submitted therefore that he did not display a persistent lack of insight.

106. Ms Tighe submitted that the mitigating factors in this case are: Dr Sardar's developing insight; his efforts to remediate; XXX and understanding why he behaved the way he did; that there had been no previous fitness to practise findings against Dr Sardar; and the lapse of time since the incident occurred. XXX. She also asked the Tribunal to note that whilst Dr Sardar's actions were found to be sexually motivated, there was nonetheless no physical element involved.

107. Ms Tighe concurred with Mr Taylor's submission that there are no exceptional factors in this case such that taking no action would be appropriate. She also concurred that imposing conditions would also not be appropriate. In addressing why the Tribunal should consider suspension rather than erasure, Ms Tighe submitted that Dr Sardar has engaged with the proceedings and that there is no evidence that would demonstrate that remediation is unlikely to be successful. She also submitted that there had been no evidence of repetition.

108. Ms Tighe also said that whilst the Tribunal had found that Dr Sardar still had further insight to develop, nonetheless it had determined that he had acquired some insight as opposed to lacking insight completely. Ms Tighe submitted that there is consistent evidence showing that Dr Sardar is on a 'journey' of developing insight. Ms Tighe went on to refer to the Tribunal's finding that there is a risk of repetition in this case. She noted that albeit that there is a risk, this had not been described as a 'significant' risk of repetition. Ms Tighe submitted that a period of suspension would satisfy the three limbs of the overarching objective and would be the appropriate sanction in this case. She submitted that a sanction of erasure would be disproportionate, given the circumstances of this case and in particular the link between XXX and his actions leading to his conviction.

The Tribunal's Approach to Sanction

109. The Tribunal bore in mind that the decision as to the appropriate sanction, if any, to impose in this case is a matter for the Tribunal exercising its own judgement taking into account but not slavishly following the SG.

110. It further 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 may have a punitive effect.

111. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Sardar's interests with the public interest. However, it was cognisant of the fact that if a sanction is necessary to protect the public that sanction must be imposed even where this may lead to difficulties for the doctor. It also took into account the statutory overarching objective.

112. The Tribunal has already given a detailed determination on facts and impairment and has taken those matters into account during its deliberations on sanction.

Aggravating and Mitigating Factors

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

114. The Tribunal took account of the following aggravating factors:

- Dr Sardar had abused his position of trust as a doctor in relation to both Patient A and Patient B who were both vulnerable patients with mental health disorders which as their psychiatrist he would have been aware of;
- Dr Sardar's actions had been found to be sexually motivated albeit that they did not involve physical contact;
- Dr Sardar's actions were in pursuit of an improper relationship with his patients;
- Dr Sardar's behaviour had been predatory involving the misuse of patients' personal contact details obtained from their medical records to approach both patients outside of the doctor-patient relationship and visiting a patient's home without an appointment or valid medical reason.

115. The Tribunal then went on to consider the mitigating factors in this case:

- Dr Sardar's partial insight – albeit that Dr Sardar still needed to develop further insight into his behaviour;
- The lapse of time since the incidents occurred;
- There were no previous findings against Dr Sardar;
- Dr Sardar's engagement with his regulator, these proceedings and XXX;
- Dr Sardar's expression of remorse and apology recognising to a limited extent the effect of his actions on Patient A and Patient B;

- XXX;
- The testimonial evidence - although the Tribunal determined that it could only place limited weight on this evidence due to its lack of specificity as to the nature and level of Dr Sardar's insight and remediation.

The Tribunal's Determination on Sanction

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

No Action

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

118. The Tribunal determined that there were no exceptional circumstances to justify taking no action in this case. It therefore decided that given the serious nature of the Tribunal's findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action.

Conditions

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

120. Given the gravity of Dr Sardar's conviction, the Tribunal could not formulate any appropriate conditions which would be workable. The Tribunal therefore determined that an order of conditions would not be appropriate or proportionate, nor would it be in the public interest.

Suspension

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

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

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

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

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

...

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.

122. Accordingly, in determining whether suspension (as opposed to erasure) was an adequate sanction the Tribunal considered it was key to determine whether Dr Sardar's misconduct was fundamentally incompatible with his continued registration. The Tribunal noted that as previously determined:

- Dr Sardar abused his position of trust as a doctor to two vulnerable patients in pursuance of improper relationships;
- His behaviour was sexually motivated and predatory;
- He had seriously breached professional boundaries;

Accordingly, the Tribunal was of the view that Dr Sardar's conduct would ordinarily be viewed as fundamentally incompatible with his continued registration.

123. XXX, in particular their targeted nature, the fact that they were directed towards vulnerable females and the particular conduct described by the witnesses. The Tribunal also noted that at no stage had Dr Sardar demonstrated an unequivocal and complete acceptance of what he had done and full insight into its effect on two highly vulnerable patients under his care with psychiatric disorders. Thus, the Tribunal concluded that Dr Sardar's misconduct was fundamentally incompatible with continued registration.

124. With regard to paragraph 97(g) of the SG, whilst as previously determined there was a risk of the doctor repeating his behaviour, nonetheless the Tribunal considered Dr Sardar's insight to be sufficient as not to pose a significant risk of repetition.

125. The Tribunal went on to consider erasure. It noted paragraph 108 of the SG and those sub-paragraphs 109 cited by Mr Taylor, as follows:

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.
- ...
- d* Abuse of position/trust (see Good medical practice, paragraph 65: ‘You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession’).
- 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).
- ...
- i* Putting their own interests before those of their patients (see Good medical practice paragraph 1: – ‘Make the care of [your] patients [your] first concern’ and paragraphs 77–80 regarding conflicts of interest).
- j* Persistent lack of insight into the seriousness of their actions or the consequences.

126. The Tribunal did not find that the offences committed by Dr Sardar were ‘offences of a sexual nature’ per se, albeit that he had been found to have had sexual motivation in committing them. Further, whilst Dr Sardar’s insight had not been complete, he had in stages shown some insight into the seriousness of his actions and their consequences. It was thus not an accurate characterisation to describe him as having shown ‘persistent lack of insight’. However, based on its findings of fact and impairment the Tribunal was clear that the factors described in paragraphs 109(a), (b), (d), (e) and (i) were present in this case.

127. The Tribunal considered the remarks made by Judge Thomas KC, in Dr Sardar's Crown Court proceedings. However, the Tribunal determined to place limited weight on those remarks. The Tribunal's decision would be formed from its own assessment of the evidence available to it including evidence as to XXX that was not available to the judge.
128. The Tribunal also considered its findings on impairment. It noted that Dr Sardar's conviction was for a serious criminal offence entailing a suspended prison sentence and that it involved two patients who were under his own care. The Tribunal noted that these patients were vulnerable, had a diagnosis of Emotionally Unstable Personality Disorder, had suffered trauma in their childhoods and neither had social support networks. The Tribunal also noted that Dr Sardar had blatantly breached professional boundaries in obtaining personal information and in visiting these patients outside of the doctor-patient relationship.
129. XXX
130. Further, the Tribunal considered Dr Sardar's incomplete insight as previously determined. It noted that since the last hearing no further evidence had been submitted on behalf of Dr Sardar regarding his developing insight.
131. The Tribunal further noted that Dr Sardar's actions constituted a serious departure from, and deliberate disregard of, the principles set out in GMP.
132. The Tribunal considered the need to protect and promote the health, safety and wellbeing of the public. In the light of its finding above that there was not a significant risk of repetition of the offending behaviours, the Tribunal determined that it did not find grounds for erasure on the basis of this limb of the overarching objective alone.
133. However, for the reasons outlined above and in particular in paragraphs 28, 29, 31, 32, 34, 35, 36 and 37, the Tribunal determined that Dr Sardar's misconduct was fundamentally incompatible with continued registration and that a sanction of erasure was necessary to promote and maintain public confidence in the profession, and in order to promote and maintain proper professional standards and conduct for members of the profession.

Determination on Immediate Order - 12/01/2023

134. Having determined that Dr Sardar's name be erased from the Medical Register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Sardar's registration should be subject to an immediate order.

Submissions

135. On behalf of the GMC, Mr Taylor, Counsel, submitted that an immediate order of suspension is necessary in this case and directed the Tribunal to paragraphs 172 onwards from the SG. He submitted that it is necessary to protect members of the public. Mr Taylor said that given the seriousness and gravity of the concerns, it is in the public interest for an immediate order of suspension to be imposed.

136. On behalf of Dr Sardar, Ms Tighe, Counsel, submitted that bearing in mind the decision made by the Tribunal, she does not have a specific submission to make in relation to the imposition of an immediate order.

The Tribunal's Determination

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

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

***173** An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care*

or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.

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

138. The Tribunal bore in mind the above paragraphs of the SG and took account of the specific basis upon which the Tribunal reached its sanction determination. The Tribunal noted the seriousness and gravity of Dr Sardar's offending behaviour which constituted a serious abuse of the doctor's special position of trust. It also noted that although Dr Sardar does not pose a significant risk, a potential risk remains.

139. Therefore, the Tribunal determined that an immediate order of suspension is necessary in order to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of the medical profession.

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

141. The interim order is hereby revoked.

142. That concludes the case.

ANNEX A – 11/10/2021

Application on service and proceeding in Dr Sardar’s absence

Service

143. Dr Sardar is neither present nor represented at this Medical Practitioners Tribunal (‘MPT’). The Tribunal therefore considered whether notice of this hearing has been properly served in accordance with Rules 15 and 40 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 (‘the Rules’) and paragraph 8 of the Schedule 4 to the Medical Act 1983.

144. The Tribunal was provided with a copy of a service bundle. This included a screenshot of Dr Sardar’s registered address and email address. A copy of the GMC’s Rule 34(9) Letter and notice of allegation was sent to him by email on 29 July 2021 and by email and special delivery post on 27 August 2021. The Tribunal noted this was successfully delivered to his email address on 27 August 2021. It had regard to the Royal Mail Track and Trace information which showed that this letter was successfully delivered on 28 August 2021.

145. The Tribunal also had regard to a copy of the MPTS notice of hearing letter sent to Dr Sardar’s email address on 7 September 2021. Dr Sardar acknowledged safe receipt of the notice of hearing by email on 10 September 2021. In addition, this letter was sent twice to Dr Sardar by post and Royal Mail Track and Trace information confirmed the letter had been successfully delivered on 8 September 2021 and 10 September 2021.

146. On behalf of GMC, Mr Alan Taylor, Counsel, submitted that based on the information in the service bundle, service had been effected.

147. The Tribunal had regard to the service bundle provided by the GMC, as well as the submissions made by Mr Taylor. In the circumstances, the Tribunal was satisfied that notice of this hearing had been served in accordance with Rules 15 and 40.

Proceeding in Absence

148. Having determined that notice of this hearing has been properly served, the Tribunal went on to consider whether it would be appropriate to proceed with the hearing in Dr Sardar’s absence in accordance with Rule 31 of the Rules. The Tribunal was conscious

that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest.

149. Mr Taylor invited the Tribunal to proceed in Dr Sardar's absence. He reminded the Tribunal that Dr Sardar had a right to attend the hearing and he could also exercise his right not to attend. He submitted that for the hearing to proceed in Dr Sardar's absence, it must be fair to all parties, including the regulator and the doctor. The regulator represented the public interest and the burden on registrants was to engage with the regulator.

150. Mr Taylor submitted Dr Sardar had been given ample opportunity to respond and had chosen not to do so. He reminded the Tribunal of Dr Sardar's acknowledgment of the MPTS notice of hearing correspondence on 10 September 2021. Dr Sardar had voluntarily absented himself and he submitted that no purpose could be served to adjourn the hearing. He submitted that it was in the public interest in accordance with the overarching objective for hearings to be heard in a reasonable time.

151. The Tribunal noted the relevant case law in determining whether to proceed in the absence of a practitioner, in particular the case of *GMC v Adeogba [2006] EWCA Civ 162*. The Tribunal reminded itself that there was a public interest in ensuring the expeditious hearing of cases. Further, all relevant documents had been sent by email and post to Dr Sardar's registered email address and registered postal address. In addition, Dr Sardar on 10 September 2021 had acknowledged safe receipt of MPTS's notice of hearing email.

152. The Tribunal was satisfied that Dr Sardar had voluntarily absented himself from these proceedings. Further, it concluded that there was no evidence before it that an adjournment would secure his attendance at a later date. No application for an adjournment had been received and no useful purpose would therefore be served by an adjournment. The allegation related to convictions concerning which Dr Sardar appeared to have pleaded guilty in Court. The Tribunal acknowledged that it would not hear from Dr Sardar concerning matters from his point of view but it took into account that he had absented himself. Having regard to the public interest, the Tribunal decided that it was fair and in the interests of justice to proceed with this hearing. It therefore determined to proceed in Dr Sardar's absence in accordance with Rule 31.

ANNEX B – 13/10/2021

Application to adjourn

153. The Tribunal agreed, in accordance with Rule 41 of the Rules, that this hearing should be heard in private as matters under consideration relate to XXX.

154. On day two of this case, whilst the Tribunal was in camera at the facts stage, it was informed that Dr Sardar had emailed on 8 October 2021 explaining his absence due to his XXX. He submitted documentation from XXX. He further explained in a telephone call with the GMC on 12 October 2021 that he would like it to be treated as 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.'

155. During the Tribunal deliberations on Dr Sardar's application to adjourn the hearing, the Tribunal reconvened the hearing and raised a matter with Mr Taylor on behalf of the GMC, in relation to its powers under Rule XXX of the Rules. This states:

'(XXX) At any stage in the proceedings before making a determination that a practitioner's fitness to practise is impaired, the Medical Practitioners Tribunal may, having regard to the nature of the allegation under consideration, adjourn and direct that—

XXX

156. The Tribunal invited Mr Taylor's submission on whether it should exercise its power to adjourn to XXX as a reason for his non-attendance. The Tribunal was concerned that further enquiries should be made as to whether this had relevance to the Allegation and the matters the Tribunal would need to consider at further stages of the hearing.

157. XXX

Submissions

158. Mr Taylor submitted XXX, it was disproportionate to direct this when the statutory overarching objective required that in the public interest cases should be dealt with in the most fair, economical, expeditious and efficient way as possible.

159. Mr Taylor further submitted that there was no evidence that XXX had impacted, or may impact, his fitness to practise and stressed that this was a conviction case and not one XXX. He submitted that even during Dr Sardar's sentencing hearing on 14 January 2020, when his defence counsel had addressed the Judge, no mention had been made XXX being a mitigating factor in Dr Sardar's conduct. In fact, it was mentioned how well Dr Sardar was working under conditions of an Interim Order.

160. Mr Taylor drew the Tribunal's attention to the various interim orders placed on Dr Sardar's registration from the time he had been arrested to his sentencing. The interim order had been one of conditions for 18 months, placed on 25 July 2019 after he had been arrested, interviewed, and bailed. After, Dr Sardar had been sentenced on 14 January 2020, the matter was brought before an Interim Orders Tribunal again, and on 16 January 2020 the interim order of conditions was replaced by an interim order of suspension. Mr Taylor advised the Tribunal that the interim order of suspension had been reviewed further on 17 April 2020; 8 October 2020; 8 April 2021; and, most recently, 28 September 2021. The High Court extended the interim order until January 2022.

161. Mr Taylor submitted that at no stage was there any indication that XXX had impacted his ability to work, and therefore it would serve no purpose to XXX.

162. XXX

163. XXX

164. Mr Taylor submitted that Dr Sardar had provided no evidence to absent himself from this hearing save for an email submitted on Friday 8 October 2021, stating he had discussed the issue with XXX. The onus was on Dr Sardar to provide satisfactory evidence as to why he was unable to attend XXX. The most recent evidence provided was a letter dated 28 January 2021. There was no evidence to suggest that XXX had played a part in his involvement in criminal activity and therefore no reason for the Tribunal XXX.

The Tribunal's decision

165. The Tribunal considered the submissions made by Mr Taylor. The Tribunal took into account the nature of the Allegation before it; convictions arising from harassing behaviour. The Tribunal also had regard to the case of *GMC v Hayat [2018] EWCA Civ 2796*:

XXX

166. XXX

167. The Tribunal considered that this was the first time Dr Sardar had made the Tribunal aware that XXX. Dr Sardar had provided the Tribunal XXX.

168. However, the Tribunal was of the view that the information provided to the Tribunal, was not sufficient in that it did not contain any evidence XXX would specifically impact on essential matters under consideration. These included: his insight; evidence of remorse; his ability to remediate; current fitness to practise; ability to participate in the hearing; and his historical ability to engage with the GMC.

169. XXX

170. The Tribunal was of the view that there was a possibility that Dr Sardar's conduct which led to his offending may have been related to XXX. XXX.

171. XXX

172. XXX

173. XXX

174. XXX

175. XXX. There are two convictions for serious offences against women. The sentencing remarks make reference to there being a '*sexual motivation*' on Dr Sardar's part. Therefore, in its view adjournment of the proceedings was a proportionate step.

176. XXX

177.XXX

178.The Tribunal concluded that it is in Dr Sardar’s own interests, and in the wider public interest, that he should XXX.

179.XXX

180.The Tribunal therefore directed the following:

XXX

29. XXX

181.The Tribunal considered that it will need three days to conclude this case. The Tribunal was of the view that a reconvened date be listed after April 2022.

182.This hearing is now adjourned.

ANNEX C – 11/05/2022

Application to adjourn

183.The Tribunal agreed, in accordance with Rule 41 of the Rules, that this hearing should be heard part in private as matters under consideration relate to XXX.

184.On day one of the reconvened hearing, Mr Davies, Counsel on behalf of Dr Sardar made an application for the hearing to be adjourned 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.’

Submissions

On behalf of Dr Sardar

185.Mr Davies submitted that the application to adjourn was to allow Dr Sardar’s legal team to obtain and serve further evidence about XXX at the time of the offending behaviour

behind the convictions. He submitted that this information would be obtained from XXX. He submitted that if the application for adjournment was granted by the Tribunal, that would, in addition, allow time for the GMC to consider whether it intended that XXX should be put before the MPTS Case Examiners and before the Tribunal, and whether it could be joined to the current MPTS proceedings XXX.

186. Mr Davies submitted that Dr Sardar's legal team are considering seeking leave to appeal out of time against sentence and challenge the crown court judge's sentencing remarks that Dr Sardar's behaviour was '*sexually motivated*'.

187. Mr Davies submitted that the Tribunal was considering a case in which Dr Sardar was said to have taken advantage of vulnerable patients and visited them within their homes. He submitted that the sanction the GMC would undoubtedly submit at the conclusion of the hearing was erasure from the Medical Register. He submitted that although the Tribunal had received the XXX, it could not go behind the crown court judge's sentencing remarks. He submitted that the main reason was to allow him to adduce further XXX, to avoid any unfairness. This would also allow time for the investigation XXX by the GMC to be properly concluded and potentially any allegations which may arise be joined with current proceedings. He submitted that Dr Sardar was currently between '*a rock and a hard place*' if the Tribunal was to decide in favour of the public interest that hearings are to be concluded expeditiously, against the interests of Dr Sardar. He submitted that Dr Sardar was currently suspended and would remain suspended as per the interim order.

188. Mr Davies submitted that it was in Dr Sardar's interests to delay the proceedings as a matter of fairness and justice, to allow time for the Tribunal to receive the full picture of XXX. He submitted that without XXX it would be seen that the actions of Dr Sardar were solely sexually motivated, and he accepted Mr Taylor's submissions that the Tribunal could not go behind the crown court judge's sentencing remarks.

189. He submitted that an adjournment would be required for six weeks in order to obtain an XXX. In addition, six weeks would allow Dr Sardar to obtain further information from Dr Sardar's XXX. He asked the Tribunal to also make case management directions, setting out a timetable.

On behalf of the GMC

190. On behalf of the GMC, Mr Taylor submitted the GMC opposed the application for adjournment. He submitted that it was for the Tribunal to progress matters expeditiously

and fairly. He submitted that although the XXX, although it was possible one may follow in due course.

191. Mr Taylor submitted that it was the GMC's view, that the Tribunal cannot go behind the conviction at the 'facts' stage and the crown court judge's sentencing remarks had been that Dr Sardar's behaviour was sexually motivated. Mr Taylor relied on the judgment of Lane, J in *Achina v General Pharmaceutical Council [2021] EWHC 414 (Admin)*.

192. Mr Taylor submitted that the Tribunal had before it XXX which were relevant to stages two and three, so progress could be made with the case. He submitted that it was in the public interest for progress to be made expeditiously. He submitted that any further investigation of a XXX allegation could take its due course in the future.

The Tribunal's decision

193. The Tribunal considered the submissions made by both parties. The Tribunal took into consideration the principle of fairness, which included fairness both to the GMC who represent the public interest, but also fairness to Dr Sardar.

194. XXX

195. XXX

196. The Tribunal noted that Dr Sardar had admitted and the Tribunal found proved an Allegation that he had been convicted of two offences of stalking two of his patients, and it was bound to have regard to the sentencing remarks made by the crown court judge, which may have serious implications for Dr Sardar's career as a doctor.

197. XXX

198. XXX

199. The Tribunal noted that there was limited evidence upon which it would be persuaded that Dr Sardar was actually XXX at the time of the offending behaviour, which directly affected his actions. The Tribunal also noted that, according to *Achina*, the Tribunal was bound by the crown court judge's comments in January 2020 that Dr Sardar's offending behaviour was '*sexually motivated*'. However, Dr Sardar had only received XXX. As a result, the Tribunal also took into account that the crown court judge did not have information about Dr Sardar's XXX at the time when he sentenced Dr Sardar.

200. The Tribunal had evidence before it, that Dr Sardar *may* have XXX at the time of the offending behaviour. The Tribunal considered that XXX at the time of his offending behaviour and whether this had influenced his behaviour. This was fundamental to adjudicating on matters such as motivation for his behaviour which may have significant consequences at stages two and three. The Tribunal was of the view that further information XXX.

201. The Tribunal had been told that Dr Sardar was currently suspended under the terms of the interim order imposed by the Interim Orders Tribunal. The Tribunal took into account that, as matters stand, Dr Sardar was currently suspended from practice and therefore did not present a risk to patient safety. A relatively short adjournment was being requested. It was expected that the additional evidence would assist the Tribunal. In addition, time would be afforded to the GMC to bring forward XXX if it wished. The sentencing remarks of the judge were an important factor in the case, but it was clear that evidence of Dr Sardar's XXX had not been before the judge.

202. The Tribunal concluded that it was fair to allow Dr Sardar the opportunity to obtain further information to ensure that he could fairly defend himself. The Tribunal was of the view that a three month adjournment was proportionate, considering the potential serious implications for Dr Sardar's career. The Tribunal determined that it was in the public interest to grant Mr Davies' application for adjournment, as Dr Sardar's interests and the public interest in justice being seen to be done outweighed expedition in this case.

203. The Tribunal determined to grant Mr Davies' application for adjournment. Annex D contained the Tribunal's case management directions.

11 May 2022

204. The Tribunal handed down its decision to adjourn on 10 May 2022 and draft case management directions. The Tribunal resumed in session on 11 May 2022. The parties made further submissions in response to the Tribunal's adjournment determination and its case management directions.

Submissions

On behalf of Dr Sardar

205. Mr Davies submitted that having read the Tribunal's adjournment determination and case management directions, he felt the Tribunal had misunderstood the timescale he had requested. Mr Davies submitted that he was going to appeal the decision against Dr Sardar's criminal sentence. In addition, he wanted the Tribunal to adjourn until the grounds for his appeal could realistically be considered by a single judge to assess whether it had merit to proceed to a full Court of Appeal hearing. This would take longer than the Tribunal had allowed for in the case management directions and adjournment determination. He proposed that the Tribunal re-list the matter on 24 October 2022 for a seven day listing.

206. Mr Davies submitted that it was preferred for the matter be adjourned to the same Tribunal.

On behalf of the GMC

207. Mr Taylor submitted that it was his understanding that Mr Davies had initially asked for a three-month adjournment. Mr Taylor did not oppose Mr Davies' timetable in principal and had availability in his calendar for a seven day listing to commence on 24 October 2022. XXX.

208. Mr Taylor submitted that to avoid further delay, that the matter may be listed with a new Tribunal.

Tribunal's decision

209. Hearing from the parties on 11 May 2022, it appeared to the Tribunal that it had not been clear to it that Mr Davies had intended to apply to delay the re-listing until after the proposed initial consideration in respect of the appeal to the Court of Appeal. The Tribunal considered that, although Mr Davies had mentioned the intention to seek leave to appeal, the principal reason that an adjournment had been sought, to its understanding, had been for the obtaining of XXX on the part of Dr Sardar. The Tribunal now understood that an adjournment was being sought until at least October 2022.

210. Nevertheless, the Tribunal considered that it ought to re-consider the application, in light of the longer period requested. It remained of the view that the Tribunal would be assisted by further XXX. It also noted that the parties agreed that, in accordance with *Achina* the Tribunal was bound by the 'factual matrix' as determined by the judge, hence the importance of the potential appeal.

211. The Tribunal considered that the opportunity to appeal out of time was sought on a principled basis: that there was relevant information, concerning Dr Sardar’s XXX which had not been before the sentencing court. The Tribunal had to weigh up whether a further delay in re-listing, compared to its proposed timetable, was in the interests of justice.

212. Upon further consideration the Tribunal concluded that, since there was an interim order in place, it was in the interests of ensuring justice to Dr Sardar, that the further time be allowed. Therefore, the matter would adjourn to be re-listed from 24 October 2022, at an available time, for seven days. The Tribunal directed for a case management hearing to take place four weeks before this date, to assess the progression of the appeal against Dr Sardar’s criminal sentence and the state of readiness of the case for the October 2022 (or other) listing.

213. Annex D contained the Tribunal’s updated case management directions.

ANNEX D – 11/05/2022

Case Management Directions

No.	Date for compliance	Direction
1		<p>The hearing listed for 9 May to 11 May 2022 is adjourned to be re-listed on 24 October 2022, for a period of seven days.</p> <p>The Tribunal having concluded the factual stage, the re-listed hearing is to deal with the Impairment and Sanctions stage, if any.</p> <p>The Tribunal is of the view that the case should be re-listed before the same Tribunal, if possible, but request that the earliest re-listing of the case be given priority, even if that necessitates the case being switched to a fresh Tribunal.</p>
2		<p>Dr Sardar to disclose to the GMC by 4pm, 20 July 2022 (unless previously disclosed):</p> <p>(a) Signed witness statement from each factual witness (including Dr Sardar) on which he intends to rely;</p>

**Record of Determinations –
Medical Practitioners Tribunal**

		(b) All reports and the CV of the expert on which Dr Sardar intends to rely; (c) Any document relating to the allegation upon which Dr Sardar relies.
3		List a 30-minute telephone case management hearing with the Case Manager and the parties on the first open date after 1 August 2022.
4		The GMC to disclose to Dr Sardar, or his legal representatives by 4pm, 19 September 2022 on (unless previously disclosed): (a) Signed witness statement from each factual witness on which it intends to rely; (b) Any document relating to the allegation upon which the GMC relies.
5		(a) Dr Sardar may, if so advised, file and serve the report of an XXX; (b) The report of such expert to be filed and served by 4pm, 20 July 2022 ; (c) the GMC may, if so advised, file and serve a report of an XXX; (d) the report of such expert to be filed and served by 4pm, 19 September 2022 .
6		If both parties intend to rely upon expert evidence, they are to ensure that their respective experts: (a) Have either met in person or remotely to discuss the issues; and (b) Have produced a joint report to indicate areas of agreement and disagreement between them (c) Such report to be provided to the Tribunal at least 7 days before the re-listed hearing.
7		GMC must, by 4pm, 26 September 2022 , provide Dr Sardar's representatives with a draft bundle index listing the documents and witness statements required by the GMC and understood to be required by Dr Sardar (to the extent Dr Sardar's position is known as at the date shown). If the GMC proposes to redact documents or witness statements, the extent of those redactions must

		be identified.
8		Dr Sardar must, by 4pm, 3 October 2022 provide the GMC with any comments on the draft hearing bundle, including any additions, redactions or removals requested. Where comments include requests for documents to be added, copies of those documents must be provided to the GMC if not already disclosed.
9		The case is to be listed for a pre-hearing case management before a Case Manager on or around 3 October 2022;
10		Both parties must prepare paginated and indexed joint hearing bundles, to be ready for submission to the MPTS by 14 days before the re-listed hearing. All hearing bundles must be supplied electronically by the GMC to the MPTS by the date shown so that they may be read by the Tribunal in advance of the hearing.
11		The parties are reminded of the panel’s powers, pursuant to Rule 16(2) to (a) draw adverse inferences; (b) refuse to admit evidence where the failure relates to the admissibility of that evidence; and (c) award costs in accordance with Rule 16B.

ANNEX E – 24/10/2022

Joinder Application

214. On 24 October 2022, at the impairment stage, Mr Taylor, Counsel, on behalf of the GMC, made a Joinder Application under Rule 32 of the Rules.

215. Rule 32 states:

‘The Committee or Tribunal may, after having regard to any relevant directions given by a Case Manager, consider and determine together-

(a) two or more allegations against the same practitioner which fall within-

(i) the same category; or

(ii) separate categories,

of impairment as set out in sections 35C(2)(a) to (e) of the Act; or

(b) allegations against two or more practitioners,

where it would be just to do so.'

Submissions

216. Mr Taylor referred the Tribunal to the history of the proceedings in particular that the Tribunal had previously adjourned the hearing to XXX. Mr Taylor submitted that the allegation relating to XXX should be joined with the conviction allegation in this case. Mr Taylor said that it would be appropriate to join the two allegations and it would be advantageous in terms of cost and time for all parties involved. In addition, he said that there would be no prejudice to Dr Sardar in joining the XXX allegation with the conviction allegations in this case.

217. Ms Tighe, Counsel, on behalf of Dr Sardar, submitted that the Joinder Application made by the GMC is not opposed. She said that this is a case where the conviction and Dr Sardar's XXX are inextricably linked. Ms Tighe also submitted that it is conceded that there will be no prejudice caused to Dr Sardar if both allegations are considered together.

218. The Tribunal also invited the parties' submissions on whether, having concluded its findings of fact on the conviction, the Tribunal could return to a facts' stage in relation to XXX. The parties were in agreement that this was possible. It was noted that Rule 32 of the Rules does not specifically mention as to what stage of the proceedings that a Joinder Application can be considered. Mr Taylor submitted that the Tribunal was not being asked to re-open its previous factual findings, but to join another referral.

219. Ms Tighe supported the GMC's submissions and added that the Tribunal had yet to make a determination on Impairment and that Rule 32 made clear that 'separate categories' of impairment could be joined.

Tribunal's Decision

220. In considering this application, the Tribunal took into account both sets of submissions but reminded itself that the decision as to whether to accede to the application is a matter for the Tribunal alone exercising its own judgement. In doing so, the Tribunal paid particular attention to the principle of fairness to both parties.

221. The Tribunal accepted the submissions from Counsel that it could grant the application despite having already handed down its determination on facts in relation to Dr Sardar's conviction. The Tribunal took into account that it was not being asked to re-open previous findings but to add a separate category of referral and apply the factual stage in relation to that alone. It had not yet started the Impairment stage of the hearing. Therefore, the Tribunal decided it would be possible for the Tribunal to consider the Joinder Application.

222. The Tribunal considered that the XXX in relation to Dr Sardar's convictions and the XXX are inextricably linked. The XXX evidence now obtained covered both. The Tribunal determined that it would not be desirable to run two separate cases against Dr Sardar. The Tribunal considered that joining the allegations would allow the Tribunal to consider XXX the matter of Dr Sardar's fitness to practise. Further, it concurred with Counsel's submissions that it would be appropriate and advantageous in terms of expedition and cost-saving for all parties involved to join the conviction and XXX allegations together.

223. The Tribunal noted that Dr Sardar had the opportunity to respond to the matters underlying the conviction and had already provided an XXX. Therefore, the Tribunal was satisfied that there would be no prejudice caused to Dr Sardar if the Tribunal were to grant the application under Rule 32 of the Rules. The Tribunal considered that it would promote consistency in decision-making for there to be a single Tribunal in relation to both of the allegations, rather than have two separate cases.

224. In all of the circumstances, the Tribunal determined to grant the Joinder Application under Rule 32 of the Rules. The Tribunal will invite the GMC to provide a consolidated

Allegation and will conduct a fresh 'factual stage' in relation to the joined XXX part of the Allegation.