PUBLIC RECORD

Dates: 06/02/2023- 21/02/2023
25/09/2023-27/09/2023
29/04/2024 - 02/05/2024

Medical Practitioner's name:	Dr Olusegun OLUJIDE
GMC reference number:	4357610
Primary medical qualification:	MB BS 1987 University of Ibadan

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

Summary of outcome

Suspension, 12 months
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr Gul Nawaz Hussain KC
Lay Tribunal Member:	Mrs Sue Wadham
Medical Tribunal Member:	Dr Nagarajah Theva

Tribunal Clerk:	Ms Ciara Fogarty

Attendance and Representation:

Medical Practitioner:	Present, represented 06/02/2023 - 21/02/2023 & 25/09/2023 -27/09/2023 Present, not represented 29/04/2024 - 02/05/2024
Medical Practitioner's Representative:	Ms Susannah Stevens, Counsel, instructed by Kingsley Napley LLP
GMC Representative:	Ms Katie Nowell, 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 and Impairment - 30/04/2024

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

Background

2. Dr Olujide qualified as a doctor in 1987 from the University of Ibadan. Between September 1988 to August 1991, Dr Olujide worked as a Senior House Officer in Medicine, Obstetrics & Gynaecology and Paediatrics in different hospitals in Nigeria. Dr Olujide came to the UK in September 1991 and has been practicing Obstetrics and Gynaecology since August 1992. The majority of his training has been at the North Hampshire Hospital, Basingstoke, Dorset County Hospital, Dorchester and The Alexandra Hospital, Redditch. He completed his training as a Specialist Registrar at Royal Bournemouth Hospital, Bournemouth in March 2006. At the time of the alleged events, Dr Olujide was employed at the Royal Hampshire County Hospital at Winchester ('the Hospital') as a Consultant Obstetrics and Gynaecologist.

3. The Allegation that has led to Dr Olujide's hearing can be summarised as:
On 6 August 2020 during Patient A's caesarean section, Dr Olujide inappropriately operated on Patient A in that he attempted to sterilise her without consent and when there was no clinical justification for doing so. It is further alleged that Dr Olujide failed to communicate to colleagues that he intended to perform a sterilisation on Patient A, failed to communicate to Patient A and her partner before he left the operating theatre that a sterilisation procedure had been completed and failed to provide Patient A with appropriate follow-up advice.

4. The referral to the GMC was further to a local investigation which arose from the incident on 6 August 2020. Dr Olujide was dismissed from his position at the Hospital on 5 March 2021 and a referral was made to the GMC.

The Allegation and the Doctor's Response

5. The Allegation made against Dr Olujide is as follows:

1. On 6 August 2020 you were involved in the care of Patient A and:
    a. during Patient A's caesarean section you:
        i. inappropriately operated on Patient A in that you attempted to sterilise Patient A:
            1. without her:
                i. written consent; **Admitted and found proved**
                ii. oral consent; **Admitted and found proved**
            2. when there was no clinical justification for doing so in the absence of consent; **Admitted and found proved**
            3. using diathermy to the fallopian tubes; **Admitted and found proved**
        ii. failed to communicate:
            1. clearly to the registrar, Dr B, that you intended to perform a sterilisation; **Admitted and found proved**
            2. to Nurse C that you wished to use the diathermy for the purpose of sterilisation; **Admitted and found proved**
            3. to the consultant anaesthetist, Dr D, that you were starting a sterilisation procedure; **Admitted and found proved**
            4. to Patient A and her partner before you left the operating theatre that a sterilisation procedure had been completed; **Admitted and found proved**

    b. after Patient A's caesarean section you:
        i. left theatre before confirming the procedure you completed on Patient A; **Admitted and found proved**
        ii. failed to advise Patient A:
            1. that she should use alternative contraception until receipt of a hysterosalpingogram test result confirming that both fallopian tubes were blocked; **Admitted and found proved**

2. (or ensure that Patient A was advised) that she was at increased risk of ectopic pregnancy if the sterilisation had not worked; **Admitted and found proved**

iii. (in the alternative to paragraph 1bii) failed to ensure the advice described at paragraph 1bii was recorded.
(1bii Admitted and found proved)

The Admitted Facts

6. At the outset of these proceedings, through his counsel, Ms Susannah Stevens, Dr Olujide made admissions to the entirety of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('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.

7. Following the announcement that the Allegation is admitted and found proved, Ms Stevens asked the Tribunal to have regard to Dr Olujide's position that he said something to Dr B which was not heard. On behalf of the GMC, Ms Nowell submitted that she did not wish to call Dr B to give evidence and acknowledged that this would result in the Tribunal accepting Dr Olujide's evidence on this point. The Tribunal determined that, in relation to Dr Olujide's admission that he failed to communicate clearly to the registrar, Dr B, that he intended to perform a sterilisation, it is accepted that he said something to Dr B that she did not hear.

Recusal and other matters

8. The Tribunal refused Dr Olujide's application that, the Tribunal should recuse itself. The Tribunal's full decision on the application is included at Annex A.

9. At the start of the hearing Dr Olujide attended and was legally represented. He also gave evidence and was questioned. Prior to the hearing reconvening on 29 April 2024, Dr Olujide absented himself from attendance of the hearing. Dr Olujide provided a written statement submitting he did not have the sufficient funds to continue legal representation, and discussed XXX and the stresses GMC and MPTS involvement had caused him. The statement prepared by his solicitor noted, that he would not be legally represented going forward. The Tribunal expressed its condolences to Dr Olujide regarding XXX. However, it rejected Dr Olujide's rerunning of the recusal argument made in his statement. The Tribunal reiterated there are no grounds for recusal.

10. On 30 April 2024 the Tribunal were made aware of an email sent from Dr Olujide's previous representative informing the Tribunal that Dr Olujide may wish to make written submissions for the next stage of the hearing. The Tribunal were puzzled by this email as Dr Olujide had plainly absented himself and according to the statement on 29 April 2024 no longer had representatives due to insufficient funds. The Tribunal were surprised by the contact made by Dr Olujide's representative as previously it was not able to hear evidence from Dr E as Dr Olujide's former legal representatives were not in a position to arrange it.

Impairment

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

Evidence

Factual Witness Evidence

12. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Dr B, a specialty doctor in obstetrics and gynaecology at Winchester Hospital, dated 7 April 2021;
- Nurse C, employed by Hampshire Hospitals NHS Trust as a scrub nurse, dated 19 April 2021;
- Dr D, a Consultant Anaesthetist at Winchester Hospital, 30 March 2021;
- Dr F, Consultant Obstetrician and Gynaecologist, Deputy Clinical Director and Lead for Gynaecology at Winchester Hospital, dated 8 October 2021;
- Ms G, midwife at Winchester Hospital, dated 7 April 2022;
- Patient A, dated 19 June 2022;
- Patient A's partner, dated 21 June 2022.
- Dr H, Consultant in Obstetrician and Gynaecologist, dated 19 August 2021 and 7 December 2022 called as an expert witness

13. Dr Olujide provided a statement (initially undated but Ms Stevens confirmed the date as 14 October 2022). He provided a further undated statement at the impairment stage. Dr Olujide also gave oral evidence at the impairment stage. In addition, the Tribunal received

oral evidence from Dr I, Speciality Registrar in the department of Obstetrics and Gynaecology at Medway Hospital.

Summary of Dr Olujide's oral evidence

14. Dr Olujide told the Tribunal that, prior to this incident, there have not been any findings made against him in relation to his clinical performance.

15. Dr Olujide told the Tribunal that, after becoming a consultant in 2006, his special interest has been in urogynaecology. He stated that he still works on the labour ward and is still involved in carrying out caesarean sections however he stated that he does not have a regular elective list and does not carry out as many caesareans as he used to.

16. Dr Olujide told the Tribunal that he has also been involved in medical education, including being responsible for a training programme for trainees. Dr Olujide stated he started reflecting what went wrong straight after the incident on 6 August 2020. He told the Tribunal that what had happened had been a shock to him. He stated that it was distressing and filled him with shame. He stated that he reflected on the impact his action had on Patient A and her partner, his colleagues and the medical profession. Dr Olujide told the Tribunal that, as a teacher of medicine, he let everyone down.

17. Dr Olujide told the Tribunal that he has discussed his conduct with his colleagues and has sought support from people to challenge him to reflect and understand what went wrong. He stated that he has reflected on the impact this investigation has had on his colleagues and he takes responsibility that he has caused them distress. He also stated that he understands his actions can undermine public confidence in the medical profession and the NHS.

18. Dr Olujide told the Tribunal that the most extensive discussions regarding the incident and the aftermath were had with Dr E. As such it was clear Dr E had relevant and direct evidence to give on the question of insight and more. Dr E had provided a written statement that did not give the detail that Dr Olujide had in his oral evidence.

19. Prior to hearing from Dr Olujide the Tribunal had indicated they did not need to hear from Dr E in person. After hearing the Tribunal's questions of Dr Olujide Ms Stevens said she intended to call Dr E (as was her right) as what he said was *'absolutely fundamental'* to the Tribunal's determination on impairment. Having heard Dr Olujide's evidence the Tribunal was of the same view and said as much. The Tribunal said more than once how it wished to hear

from Dr E. Despite this, neither Dr Olujide's then legal representatives or Dr Olujide himself have taken steps to have Dr E appear before the Tribunal.

Documentary Evidence

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

- Patient A's medical records;
- Various transcripts of the Trust interviews dated between 28 August 2020 and 8 October 2020
- Dr Olujide stage 2 witness statement dated 19 April 2024

Submissions

On behalf of the GMC

21. On behalf of the GMC , Ms Katie Nowell, Counsel submitted that Dr Olujide is impaired by reason by reason of misconduct (section 35 (c) 2 (a) Medical Act), by reason of his actions and inactions on the 6 August 2020.

22. Ms Nowell first reminded the Tribunal of the relevant case law regarding impairment, including *R (on the application of Calhaem) v. General Medical Council [2007] EWHC 2606 (Admin)*, *Aga -v- General Medical Council [2012] EWHC 782 (Admin) E, Roylance (no 2) v GMC [2000] AC 311, PC page 331C,*: *Cheatle v GMC [2009] EWHC 645 (Admin), Mallon v General Medical Council 2007 SC 426.*

23. Ms Nowell submitted that Dr Olujide's admitted conduct constitutes serious misconduct. She invited the Tribunal to consider those allegations together with the expert evidence of Dr H who has opined that in respect of each of them the doctor's care and treatment of patient A fell seriously below the expected standard.

24. Ms Nowell submitted Dr Olujide's various actions therefore do demonstrate a number of clear and serious breaches of Good Medical Practice (2013) ('GMP'). She submitted Dr Olujide had breached a number of significant aspects of GMP and referred the Tribunal to paragraph 17. She referred the Tribunal to 'Continuity and coordination of Care' paragraphs in GMP. In addition, Ms Nowell drew the Tribunal's attention to the now withdrawn (as at

September 2020 – when it was replaced by 2020 Guidance) 2008 GMC Guidance on consent entitled: "Consent: Patients and Doctors Making decisions together".

25. Ms Nowell reminded the Tribunal that this was not just a one-off incident. Although all allegations took place in respect of one patient over one afternoon, Dr Olujide has described what happened that day as a catalogue of lapses of clinical judgment. She submitted that the severity and number of acts and omissions on that day amounts to very serious misconduct.

26. Ms Nowell then made submissions on impairment. Ms Nowell reminded the Tribunal of the overarching objective and the relevant case law namely *Cheatle v GMC [2009] EWHC 645 (Admin), Sawati v GMC [2022] EWHC 283.*

27. Ms Nowell submitted that there has been a limited level of insight in this case. Dr Olujide has accepted that he should have obtained written consent before performing a sterilisation on patient A. He has also evidenced relevant CPD on consent, communication and the use of diathermy and laser, since this incident along with an audit he carried out on his sterilisations. He had also, by the end of the week preceding the start of the Fitness to Practice hearing, admitted all allegations against him, negating the need to call witnesses.

28. She submitted, however, that is the limit of his insight. Dr Olujide has provided no credible explanation for why he had this catalogue of clinical judgment lapses on that day. His only explanation was limited to lack of consent, namely that when he commenced the caesarean section he was of the view that sterilisation was required. The doctor has been pushed to provide explanations for his lapses, including the use of diathermy, but he has been unable to do so. Ms Nowell reminded the Tribunal that the allegations Dr Olujide has admitted are not limited to the failure to obtain written consent. She submitted Dr Olujide's statement shows a lack of remorse or reflection in respect of any of the other allegations against him.

29. Ms Nowell submitted that the severity of the misconduct alone justifies a finding of impairment. Dr Olujide, in acting without the consent of the patient, has breached one of the fundamental tenets of the profession. Further, as Dr Olujide acknowledged, his actions are likely to place the profession into disrepute and damage the public's confidence in the profession. She submitted that the doctor has, by his act and omissions, put the patient at risk. Most notably he has sterilised her against her wishes, used an outdated technique to do so and has failed to give her potentially life saving advice. Further, Ms Nowell submitted that the continued lack of any proper explanation for the catalogue of errors in clinical judgement,

with limited insight and regret provides no comfort that there will be no repetition in misconduct, despite some attempts to remediate as set out in the recent statement from Dr Olujide.

30. Ms Nowell therefore invited the Tribunal to find Dr Olujide's fitness to practice impaired.

31. Dr Olujide did not provide submissions on impairment, however the Tribunal had regard to Dr Olujide's most recent statement submitted for the purposes of stage 2. Dr Olujide submitted in his statement he has undertaken continuous professional development (CPD) both within and outside of the department, which includes a re-accreditation in colposcopy. He submitted that he has kept his knowledge updated by reading and keeping up to date with Royal College of Obstetricians & Gynaecologists (RCOG) and NICE guidelines.

The Relevant Legal Principles

32. 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.

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

34. Misconduct has been described as '*a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances'* and that, *'the standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances… The professional misconduct must be serious',* per Lord Clyde in *Roylance v GMC (No.2) [2000] 1 AC 311).*

35. If the Tribunal makes a finding of misconduct, it must then determine whether Dr Olujide'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, whether they have been remedied and any likelihood of repetition. The Tribunal must also bear in mind that even if the matters are remediable, have been remedied and there is no likelihood of repetition, in some instances, the need to uphold professional standards and

public confidence in the profession would be undermined if a finding of impairment were not made.

36. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as endorsed by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. In particular, the Tribunal considered whether its findings of fact showed that Dr Olujide's fitness to practise is impaired in the sense that 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*
>
> *…'*

The Tribunal's determination

Misconduct

37. In determining whether Dr Olujide's fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amounted to misconduct, and then went on to consider whether the misconduct was serious.

38. The Tribunal looked firstly to the conduct which has been admitted and found proved. It was plainly misconduct, as evidenced by Dr Olujide's own admission. Moreover, the Tribunal considered that Dr Olujide's conduct was extremely serious. The Tribunal considered that informed consent is a fundamental tenet of the medical profession; patients have to be able to trust doctors with their lives. The Tribunal considered that Dr Olujide's conduct would be considered deplorable by medical practitioners and noted his conduct seriously undermines public confidence in the profession.

39. The Tribunal accepted the submissions made by the GMC and accepted the evidence from the expert. The Tribunal determined that his conduct fell so far short of the standards reasonably to be expected of a doctor as to amount to serious misconduct.

40. The Tribunal also concluded that Dr Olujide's conduct so fundamentally undermined confidence in the profession, as to amount to serious misconduct.

41. All admitted and found proved allegations, save for 1b(i) amount to serious misconduct. The Tribunal accepted Dr Olujide left the theatre to get a drink of water. Therefore, in accordance with the expert evidence of Dr H his conduct did not fall below the expected standard.

Impairment

42. The Tribunal, having determined that Dr Olujide's conduct amounted to misconduct, went on to consider whether, as a result of that misconduct, his fitness to practise is currently impaired.

43. In determining whether a finding of impairment is necessary, the Tribunal was mindful throughout of the overarching objective and had regard to Dr Olujide's insight, remediation, and the likelihood of repetition. The Tribunal considered Dr Olujide's insight and remediation to be limited. It noted that Dr Olujide cannot explain why he did what he did. He simply describes his actions as a series of clinical errors. But these were not errors but deliberate acts. For example Dr Olujide accpeted he had only ever used diathermi to perform a steralisation once before (in Nigera) many years ago and only because he did not have the appropriate instruments. In this case where the correct instruments were at hand his explantion for not using them was that the diathermi wand was in his hand at the time.

44. It is of note that when asked to list these clinical errors Dr Olujide made some glaring omissions. The simple case is that it is difficult if not impossible to reflect upon ones actions if one cannot explain why they were done. The Tribunal considered there to be an absence of meaningful reflection.

45. The Tribunal had regard to paragraph 76 of the judgment in *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 when determining current impairment (see above). The Tribunal determined limbs (a), (b) and (c) were engaged:

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 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; '

46. The Tribunal was of the view that the misconduct as admitted and found proved was a breach of the fundamental tenets of the medical profession and had brought the profession into disrepute. Further, the Tribunal considered Dr Olujide's misconduct to be highly damaging to public confidence in the profession.

47. Taking into account all of the above, the Tribunal determined that Dr Olujide's fitness to practise is impaired by reason of misconduct. Further, the misconduct admitted and found proved is so serious that a finding of impairment is necessary in relation to limbs a, b and c of the Overarching Objective:

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

Determination on Sanction - 02/05/2024

Ancillary Matter

1. At the impairment stage, Dr Olujide absented himself from the hearing. The Tribunal noted that Dr Olujide had attended a significant part of the hearing and provided a statement in which he did not ask the Tribunal to not continue hearing the matter. Given this background and in the interest of justice, the Tribunal determined to proceed in Dr Olujide's absence. At stage 3 of the hearing, Dr Olujide provided written submissions. Subsequent to this he emailed the MPTS to say he wished to attend the stage 3 decision.

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

The Evidence

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

Submissions

4. On behalf of the GMC, Ms Nowell submitted that the appropriate sanction in this case was an order of suspension. She referred the Tribunal to the Sanctions Guidance (2020) ('the SG') throughout her submissions.

5. Ms Nowell invited the Tribunal to consider the mitigating factors in this case, she referred the Tribunal to paragraphs 25(a,b), 26 (e), 27, 31, and 34 of the SG, which she submitted were of particular relevance:

> *'25 a Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it.*
>
> *b Evidence that the doctor is adhering to important principles of good practice*
>
> *26 e Keep their knowledge and skills up to date and work with colleagues and patients to improve the quality of their work and promote patient safety.*
>
> *27 When a doctor graduates from medical school and begins working in the UK, they may well experience a steep learning curve as they take on new responsibilities. As a doctor's medical career progresses, the tribunal would expect the doctor to gain increased understanding of the social and cultural context of their work, appropriate standards, and national laws and regulations that apply to their area of work.*
>
> *31 Remediation is where a doctor addresses concerns about their knowledge, skills, conduct or behaviour. Remediation can take a number of forms, including coaching, mentoring, training, and rehabilitation (this list is not exhaustive), and, where fully successful, will make impairment unlikely.*
>
> *34 Doctors may present references and testimonials to support their good standing in the community or profession. The tribunal should consider what weight, if any, to give to these documents.'*

6. Ms Nowell submitted that, albeit limited, Dr Olujide, has shown some insight and remediation. He has attempted to apologise to the patient and has admitted to the Allegation in its entirety. She submitted that Dr Olujide since the Allegation has been adhering to GMP, and working within his area of competence. She submitted paragraph 27 of the SG cannot be relied upon as a mitigating factor at the time of events, Dr Olujide had been practising in obstetrics and gynaecology the UK since 1992 and has considerable experience.

7. Ms Nowell then invited the Tribunal to consider the aggravating factors in this case. She submitted Dr Olujide's lack of insight is an aggravating factor. She noted that it is not the case that Dr Olujide has refused to apologise or remediate, she submitted that his lack of insight is rather a lack of understanding i.e why he did what he did.

8. Ms Nowell then invited the Tribunal to consider what sanction it should impose. Ms Nowell submitted that the starting point would be the consideration of conditions, and whether such a sanction would be workable, and would reflect the gravity of the misconduct. She submitted that it would be difficult to see how conditions could be imposed so as to address the concerns identified by the Tribunal, and referred the Tribunal to the relevant paragraphs of the SG.

> *'82 Conditions are likely to be workable where:*
>
> *a the doctor has insight*
>
> *b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*
>
> *c the tribunal is satisfied the doctor will comply with them*
>
> *d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.'*

9. She referred the Tribunal in particular to paragraph 82 as regards the applicability of sanctions. She accepted that Dr Olujide exhibited some insight, which paragraph 82(a) indicated was likely to be needed for conditions to be suitable, but that it still required development. She submitted that it was difficult to construct conditions that would be appropriate and effective, and that the imposition of conditions would not in any event reflect the gravity of the misconduct and wider issues of public concern.

10. Ms Nowell submitted that Dr Olujide required a further period of time to develop his insight, reflect and consider why he acted as he did and how he could amend that going forward. She submitted that conditions were not therefore appropriate.

11. Ms Nowell submitted that a period of suspension would meet the gravity of the seriousness and extent of the misconduct in this case. Ms Nowell submitted that the length of the period of suspension was a matter for the Tribunal, but submitted that a suspension length at the upper end would be most suitable. She submitted a suspension would satisfy the overarching objective in declaring and upholding proper standards and publicly marking the gravity of its findings and would also allow Dr Olujide time to reflect. She also invited the Tribunal to consider directing a review to allow Dr Olujide the opportunity to demonstrate that he has developed his insight.

12. Dr Olujide was not in an attendance at this stage of the hearing, however he provided written submissions which were provided to the Tribunal. Dr Olujide invited the Tribunal to consider the testimonials and his evidence at the hearing. He invited the Tribunal to note how long he has practiced as a doctor without any problems and how long he has worked since his actions that afternoon, with no repeat and no concerns about his practice.

13. In his written submissions Dr Olujide submitted that he is remorseful for what happened and for the consequences for others. He submitted that if he is unable to practice medicine it will affect himself and his family, emotionally, financially and physically and will negatively impact his charity work.

14. Dr Olujide emphasised the financial stress not being able to practice medicine would have on himself and his family, he apologised for his conduct that afternoon and submitted he had never done anything like it before or since. He submitted that he will never repeat what happened and he has continued to actively practise obstetrics and gynaecology since 6 August 2020 without any issues, complaints, or complications.

15. Dr Olujide submitted that he still has clinical skills and expertise that can be of a considerable benefit to the patients and the public without posing a risk to either.

The Tribunal's Determination on Sanction

16. The decision as to the appropriate sanction, if any, to impose in this case is a matter for the Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken the SG into account and borne in mind the over-arching objective.

17. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and that sanctions are not imposed to punish or discipline doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Olujide's interests with the public interest.

18. The Tribunal also reminded itself of the overarching objective as set out in Section 1 of the Medical Act 1983, which requires the Tribunal to:

a. Protect, promote, and maintain the health, safety, and well-being of the public,

b. Promote and maintain public confidence in the medical profession, and

c. Promote and maintain proper professional standards and conduct for members of that profession.

Aggravating and Mitigating Factors

19. The Tribunal has already set out its decision on the facts and impairment which it took into account during its deliberations on sanction. Before considering what action, if any, to take in respect of Dr Olujide's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

20. The Tribunal accepted Ms Nowell's submissions and particulars of the SG in regards to mitigating factors in this case. It determined that, albeit limited, Dr Olujide has developing insight. It noted that he admitted to the Allegations, through these proceedings has apologised to Patient A and has taken some steps to remediate and address his actions through clinical courses and CPD. It had regard to paragraph 25(b) of the SG and noted that Dr Olujide has adhered to principles of good practice, has no previous fitness to practice history and there has been no repetition since the incident. The Tribunal noted that Dr Olujide did inform the patient of what had happened. It noted that Dr Olujide cooperated with the investigation.

21. The Tribunal had regard to paragraphs 34-41 of the SG:

> *'34 Doctors may present references and testimonials to support their good standing in the community or profession. The tribunal should consider what weight, if any, to give to these documents.*
>
> *41 The tribunal should also take into account that:*
>
> *a variation in the quantity, quality and spread of references and testimonials between cases does not necessarily relate to the good standing of a doctor*
>
> *b there may be cultural reasons for not requesting references and testimonials (eg some doctors may be less likely to discuss the fact that they are under investigation with colleagues, because of the significant reputational consequences for their family and networks in their communities)*
>
> *c doctors who qualified outside the UK and have just started working in the UK may find it difficult to get references and testimonials.'*

22. The Tribunal had regard to the number of positive, and some glowing, testimonials submitted on Dr Olujide's behalf going to his character and clinical competence.

23. The Tribunal considered the aggravating factors in this case. It determined that whilst Dr Olujide has completed courses on consent and communication he has not grappled with the central issue – why he did what he did. It noted Dr I gave positive evidence regarding Dr Olujide's clinical competence, however, was unaware that Dr Olujide had admitted the Allegations. The Tribunal considered the brief nature of Dr E's statement. In the context of Dr Olujide's oral evidence that he effectively engaged in significant discussions relevant to insight, given the potential assistance Dr E's evidence could have provided, the Tribunal found it staggering Dr Olujide chose not to call him to give evidence.

24. The Tribunal found that Dr Olujide had failed to work collaboratively with colleagues. In his evidence Dr Olujide had said it would not be typical for him to speak to the scrub nurse or anaesthetist, two important individuals in any operation. The Tribunal found that Dr Olujide abused his professional position by sterilizing Patient A without her consent, when he spoke to the patient and informed her of what he had done he did not apologise or explain why he had done what he did. The Tribunal determined Dr Olujide's actions could not

properly be characterised as an isolated incident. These were not a series of clinical errors but deliberate actions. The Tribunal noted although it happened on one day and during one procedure it was a number of serious acts and omissions each of which amounted to serious misconduct.

25. The Tribunal considered the aggravating factors in this case, it had particular regard to paragraphs 51, 52, 55(b, d), 56, 57 of the SG:

> *'51 It is important for tribunals to consider insight, or lack of, when determining sanctions. It is particularly important in cases where the doctor and the GMC agree undertakings or the tribunal imposes conditions. The tribunal must be assured that this approach adequately protects patients, in that the doctor has recognised the steps they need to take to limit their practice to remediate.*
>
> *52 A doctor is likely to lack insight if they:*
>
> *a refuse to apologise or accept their mistakes*
>
> *b promise to remediate, but fail to take appropriate steps, or only do so when prompted immediately before or during the hearing*
>
> *c do not demonstrate the timely development of insight*
>
> *d fail to tell the truth*
>
> *55 Aggravating factors that are likely to lead the tribunal to consider taking more serious action include:*
>
> *b a failure to work collaboratively with colleagues*
>
> *d abuse of professional position*
>
> *57 The tribunal may be presented with a statement from the doctor's responsible officer during a hearing, providing a factual account of the doctor's response to the concerns raised.'*

No Action

26. The Tribunal first considered whether to conclude the case by taking no action. It was satisfied that there were no exceptional circumstances in this case that would justify taking no action. It considered taking no action would not be appropriate or proportionate given the serious nature of its findings. The Tribunal decided that taking no action would fail to uphold the statutory overarching objective.

Conditions

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

28. The Tribunal took account of the relevant paragraphs of the SG.

29. The Tribunal considered that as Dr Olujide does have some limited insight into his actions, and that there was the potential for him to respond to conditions. The Tribunal was of the view that the misconduct did not flow from lack of clinical knowledge or understanding and that it could not identify effective conditions which would be practicable, workable or measurable in the circumstances.

30. The Tribunal was also of the view that conditions would not be commensurate with the seriousness of the misconduct. It determined that conditions would not be sufficient to address such a serious breach of patient trust, maintain public confidence in the profession and uphold proper professional standards. The Tribunal was therefore satisfied that the imposition of conditions would not be an appropriate or proportionate response.

Suspension

31. The Tribunal then went on to consider whether to impose a period of suspension on Dr Olujide's registration.

32. The Tribunal had regard to paragraphs 91, 92 and 93 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).

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…"

33. The Tribunal noted Dr Olujide's submissions on sanction and that a suspension would have a punitive effect upon him. However, that is not sufficient reason for a suspension to not be made. The Tribunal determined that this is an extremely serious case of misconduct, not only did Dr Olujide ignore the wishes of a patient, he performed a sterilisation in an unacceptable manner with inappropriate instruments. He then failed to advise the patient that she should use alternative contraception and that she was at risk of ectopic pregnancy. The Tribunal has heard from the expert witness that ectopic pregnancy is a significant cause of maternal morbidity and mortality. It was later confirmed that Dr Olujide only partially sterilised the patient and the patient only learnt of this later, causing additional distress.

34. In simple stark terms, Dr Olujide ignored the express wish of his patient. His deliberate actions had a damaging and permanent impact upon his patient. His actions were intended to take away her ability to exercise her choice as to whether to have another child. It was a betrayal of a fundamental tenet of the doctor patient relationship.

35. This is the type of case that could have resulted in erasure. Having considered the relevant factors the Tribunal determined that it was not fundamentally incompatible with continued registration and the doctor was capable of gaining the appropriate level of insight.

36. Therefore, in all the circumstances, the Tribunal concluded that imposing a period of suspension on Dr Olujide's registration would be appropriate and proportionate. The Tribunal also considered that a period of suspension would reflect the gravity of Dr Olujide's misconduct. A suspension would have a deterrent effect and serve to maintain public

confidence in the profession. It would send a clear message to Dr Olujide, the profession and the wider public regarding the conduct expected of a registered doctor.

Duration of Suspension

37. Having decided that the appropriate sanction was one of suspension, the Tribunal went on to consider the length of suspension. The length of the suspension may be up to 12 months and is a matter for the Tribunal's discretion, depending on the seriousness of the particular case.

38. In determining the length of the suspension, the Tribunal took account of the need to mark the seriousness of Dr Olujide's misconduct and also to declare and uphold proper standards of behaviour. The Tribunal considered paragraph 100 of the SG in that regard:

> *'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'*

39. The Tribunal concluded that a period of 12-month suspension was the appropriate and proportionate sanction in this case. It was satisfied this period of suspension was necessary in order to uphold proper standards within the profession, and to maintain public confidence in the profession. It would also allow sufficient time for the doctor to develop more than the basic insight he has to date.

40. The Tribunal determined to direct a review of Dr Olujide's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Olujide to demonstrate how he has remediated and developed insight. Most importantly, why he did what he did is the question Dr Olujide needs to comprehensively answer. It will be Dr Olujide's responsibility to demonstrate how he has addressed this Tribunal's concerns.

Determination on Immediate Order - 02/05/2024

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

Submissions

9. On behalf of the GMC, Ms Nowell submitted that there was no application in respect of an immediate order. The GMC observed that the doctor had been working throughout the relevant period without incident or concern.

10. Dr Olujide submitted that the sanction should not be immediately imposed as it would allow him to hand over the care of his patients in a timely and sensitive manner.

The Tribunal's Determination

11. The Tribunal had regard to paragraphs 172 to 178 of the SG. It took account of the guidance, the submissions of both parties and the specific basis upon which the Tribunal reached its determination on sanction.

> *'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…'*

12. The Tribunal was satisfied that the substantive order properly marks the seriousness of Dr Olujide's misconduct and upholds the overarching objective. It determined that an immediate order was not necessary to protect members of the public, it is not in the public interest, and it is not in the best interests of the doctor.

13. In all the circumstances, the Tribunal determined not to impose an immediate order of suspension on Dr Olujide's registration.

14. This means that Dr Olujide's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served, unless he lodges an appeal. If Dr Olujide does lodge an appeal, he will remain free to practise unrestricted until the outcome of any appeal is known.

15. There is no interim order to revoke.

16. That concludes the case.

ANNEX A – 27/09/2023

Application for Recusal

17. On behalf of Dr Olujide, Ms Susannah Stevens, Counsel, made an application for the recusal of the Tribunal during Stage 2.

18. The Tribunal had the benefit of considering two extensive and detailed skeleton arguments and also oral submissions by the parties. The below is a brief summary of the submissions made.

Submissions

19. Ms Stevens submitted that there is an appearance that the Tribunal is not impartial and openminded such that an objective bystander could be left with a perception of a risk of conscious or unconscious bias against Dr Olujide. She referred the Tribunal to the test, when considering bias, laid out in *Regina (Al-Hasan) v Secretary of State for the H. Department* [2005] 1 W.L.R 688 which states *'whether the fair minded and informed observer having considered the relevant facts would conclude that there was a real possibility of bias'*.

20. Ms Stevens submitted that it is not necessary to establish that there is actual bias on the part of the Tribunal, nor is it necessary to establish that there would be conscious bias. She stated that the fact that the Tribunal may subjectively be of the view that it is not biased is not a factor to be given much weight and that the test when considering bias is an objective one. Ms Stevens accepted that the onus is on Dr Olujide to establish bias.

21. Ms Stevens reminded the Tribunal that Dr Olujide has already made full admissions to the Allegation. She then stated that he was questioned at the impairment stage about his statement given at the facts stage to seek to show inconsistencies between this and his admissions. Ms Stevens suggested that these questions were an attempt to suggest an alleged minimisation of responsibility and/or to give a misleading impression.

22. Ms Stevens submitted that the transcript of the hearing reveals there is a real risk of an appearance that the Tribunal viewed Dr Olujide's case with disfavour, due to its consideration of a case theory and allegations not advanced by the GMC. She went on to submit that consideration of matters that have not been alleged and/or particularised

amounts to unfairness and that there is an appearance that the Tribunal viewed Dr Olujide's case with disfavour as a result of an unfair and procedurally improper reliance on documentation provided for the facts stage.

23. On behalf of the GMC, Ms Katie Nowell stated that there was no dispute with the legal authorities provided by Ms Stevens and that she accepts the Article 6 Right to a Fair and Public Hearing applies to disciplinary proceedings. She also accepted that this is an absolute right and not subject to discretion or balancing with other factors such as Tribunal time or public expense.

24. Ms Nowell stated the GMC understands that Dr Olujide's case for bias is based on the behaviour of the Tribunal during these proceedings as opposed to any pre-existing relationship or association. She referred the Tribunal to the case of *Demarco Almeida v Opportunity Equity Partners Limited* [2006] UK PC 448 which provided guidelines in respect of judicial intervention.

25. Ms Nowell submitted that Dr Olujide has not been able to point to any evidence to demonstrate that the Tribunal is likely to be biased such as an association with any of the witnesses or representatives, any prior knowledge of the case or sight of any document that it should not have been privy to. She therefore submitted that Dr Olujide has to demonstrate that the behaviour of the Tribunal, throughout the course of the proceedings, would suggest to the fair-minded observer that they have a settled opinion or view of the doctor such as to deny him a fair trial. Ms Nowell did not accept that the questions asked to Dr Olujide by the Tribunal would suggest to the *'fair minded observer'* that the Tribunal had a settled view on those facts. She stated that the answers could have been favourable to Dr Olujide's cause in terms of explaining his conduct and his level of insight.

26. Ms Nowell submitted that in a case where there is no evidence that any member of the Tribunal attended with preconceived ideas or connections which might raise a suspicion or likelihood of bias, the doctor would have to point to behaviour throughout the proceedings which would cause a right-minded observer to conclude that there was real possibility of bias against the doctor. She invited the Tribunal to find that this is not such a case and to dismiss the application for the recusal of the Tribunal.

The Tribunal's Approach

27. The Tribunal took account of the skeleton arguments provided by both parties and had regard to their oral submissions as well as their answers to questions.

28. The relevant test is set out in the case of *Porter v Magill* [2001] UKHL 57 (13th December 2001) and both parties had referenced it as follows:

> *'The question is whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.'*

29. The Tribunal also referred to the case of *Gillies v Secretary of State for Work and Pensions* [2006] UKHL 2 and its elaboration on the fair-minded and informed observer, as set out in paragraph 17 of that judgment:

> *'the observer is neither complacent nor unduly sensitive or suspicious when he examines the facts that he can look at. It is to be assumed too that he is able to distinguish between what is relevant and what is irrelevant, and that he is able when exercising his judgment to decide what weight should be given to the facts that are relevant.'*

30. Furthermore, the fair minded and informed observer takes the trouble to read the text of an article as well as the headlines and is able to put information into its overall social, political or geographical context. Such a person reserves judgment until they have seen and understood both sides of the argument.

31. The Tribunal was mindful that the test was not whether the Tribunal itself thinks it is biased or that there is a risk of bias. The test is whether the fair-minded and informed observer would conclude there was a real possibility of bias. The Tribunal took all of the circumstances of this case into account, including the procedural position the case has reached and what information the fair-minded and informed observer has.

32. The Tribunal reminded itself of what a 'fair minded and informed observer' was not. Such an observer is not to be confused with the person making the allegation of bias. The person making the allegation lacks the objectivity required of the fair minded and informed observer.

33. The position is also not to be confused with that of the Tribunal against whom the allegation of bias is made, however, the fair minded and informed observer will consider any explanation given by the Tribunal as to their knowledge or appreciation of the relevant circumstances. The question is not whether such an explanation is accepted or rejected, but whether there is a real possibility of bias notwithstanding the explanation.

34. A recusal application is one in which the context and the particular circumstances of the case are of supreme importance. It is necessary to consider the proceedings as a whole when engaging in the objective assessment of whether there was a real possibility that the Tribunal was biased. Matters cannot be considered in a vacuum.

35. If the fair minded and informed observer, having considered the facts, would not conclude that there is a real possibility that the Tribunal is biased, then the application must fail even if that leaves the applicant dissatisfied and bearing a sense that justice will not or may not be done.

36. The Tribunal reminded itself that it can be tempting for a Tribunal against whom criticisms are made to say that it would prefer not to hear further proceedings. It is tempting because the Tribunal will know that the applicant may well go away with a sense of grievance if the decision goes against them. A Tribunal must resist the temptation to recuse themselves simply because it would be more comfortable to do so. The Tribunal must apply the relevant test.

37. In regard to the inquisitorial nature of the Tribunal, the Tribunal bore in mind the case of *Towuaghantse v GMC* 2021 EWHC 681 (admin), which states, '*Regulatory proceedings of the type with which I am concerned are quintessentially inquisitorial*.'

The Tribunal's Decision

38. The Tribunal first considered Ms Stevens' submission that the Tribunal had asked questions of Dr Olujide at Stage 2 which suggested the Tribunal believed that Dr Olujide was attempting to minimise his responsibility or give a misleading impression. At Stage 1, the Tribunal was told that Dr Olujide made admissions to all paragraphs of the Allegation, however following these admissions a document which initially appeared to be a set of agreed facts was produced which stated that Dr Olujide had spoken in theatre, contrary to the witness statements provided to the GMC by his colleagues.

39. This inconsistency was brought to the attention of the parties, and a further statement was produced in which Dr Olujide stated that he had spoken, but quietly, and nobody heard him. It was during these exchanges, leading to the final document that the Tribunal used the expressions 'spin' and 'cake and eat it'. These were specifically in relation to the apparent full admissions compared to the significant factual differences in the documents.

40. The GMC agreed the final Admissions Statement Version 2 and did not wish to call witnesses to contradict it. The Tribunal decided not to call evidence of its own volition given the parties position and made it clear that it would proceed upon the basis of the statement submitted on behalf of Dr Olujide. Therefore, the Tribunal accepted these matters as uncontested.

41. Given the nature of the application, that the Tribunal did not call Dr B, an available witness who was present in the operating theatre is of significance. The Tribunal had proceeded in a way that was to the benefit of Dr Olujide's case by not hearing evidence that (based upon Dr B's statement) would have directly contradicted his account. The Tribunal determined that a fair minded and informed observer would recognise that if the Tribunal had a bias against Dr Olujide, this was clearly not evident at this point.

42. The Tribunal next considered the issues raised in relation to the questions which were asked of Dr Olujide when he gave oral evidence. The Tribunal first considered the concerns raised relating to the courses which Dr Olujide had undertaken. The Tribunal asked Dr Olujide why he had chosen these specific courses, one of which was an 'Unconscious Bias' course, as part of his remediation. Dr Olujide was also asked whether he felt he may have had some unconscious bias towards Patient A. Ms Stevens submitted that these questions, at the very least, implied that Dr Olujide may have felt that he had an unconscious bias towards Patient A.

43. The Tribunal questions asked of Dr Olujide in relation to this course, and other remediation undertaken, were asked with the intention of determining whether Dr Olujide had remediated the concerns about his practice. The Tribunal found that an objective and fair-minded observer would understand that questions in relation to the relevance of courses undertaken is clearly linked to the extent and effectiveness of remediation.

44. The Tribunal next considered the questions asked in relation to cultural differences. It was Ms Stevens' submission that the Tribunal had implied that Dr Olujide had acted in the manner that he did as a result of cultural differences arising from his race or nationality. The Tribunal has examined the Transcript and confirmed that the questions were referring to the overall change in attitudes between members of the public and professionals such as doctors i.e. that there was far less deference shown now and patients were far more likely to express their views and question advice. No explicit or implied reference was made to ethnicity or nationality. The Tribunal therefore determined that the fair minded and informed observer

would see no reason to conclude that the Tribunal had asked questions which implied that Dr Olujide's ethnicity or nationality was relevant to his actions.

45. It was also asserted by Ms Stevens that the Tribunal had formed the view or was at least thinking that Dr Olujide was acting paternalistically towards Patient A. The Tribunal again considered the questions asked. They were asked to try and understand why the courses undertaken had been chosen. In this regard, no firm view of any sort was expressed by the Tribunal. The Tribunal therefore determined that the fair minded and informed observer would see no reason to conclude that the Tribunal had asked questions which suggested it had formed an entrenched view, indeed any view, on this matter.

46. Within the context of the above issues, the Tribunal then considered Ms Stevens' submission that questions were asked at Stage 2 which concerned Stage 1 factual issues. The Tribunal first considered Ms Stevens' submission that the questions asked about Dr Olujide's use of the Diathermy tool were a re-opening of Stage 1 issues. The Tribunal considered the transcripts and noted that Dr Olujide had initially offered the information that he had only performed a sterilisation using the Diathermy tool once before in another country, and this was then clarified by the LQC and later by the Lay Member. The Tribunal had not been questioning whether Dr Olujide had used the tool, but his experience with it and therefore his reasons for using it in this instance. The Tribunal's position was that questioning Dr Olujide's use of the Diathermy tool was appropriate and formed part of his insight into why he had chosen to sterilise Patient A in that way.

47. The Tribunal further considered that on several occasions during his oral evidence in Stage 2, Dr Olujide referred to documents which were produced in his Stage 1 bundle. The Tribunal was also mindful that all of Dr Olujide's reflective statements were contained in the Stage 1 bundle. The Tribunal therefore found that it was entirely appropriate to refer to these documents in questioning Dr Olujide about his insight and remediation.

48. The Tribunal was mindful that the test to be applied at Stage 2 is more onerous and complicated than a simple admission, which would suffice to conclude Stage 1. The Tribunal was particularly mindful that Dr Olujide had admitted that he sterilised Patient A, knowing she did not consent.

49. The Tribunal further considered that asking questions about why Dr Olujide made the decisions that he did was necessary to determine whether there is a risk of Dr Olujide repeating his admitted misconduct. The Tribunal noted that an admission alone is not evidence of insight, and insight must be developed in a way which shows that Dr Olujide

understands the motivations and triggers for acting in the manner that he did. The Tribunal considered that an objective and informed observer would expect the Tribunal to ask why Dr Olujide did what he did, in order to understand his motivations and therefore the risk that he would repeat his behaviour in the future.

50. The Tribunal found that it was entitled to ask the questions it did at Stage 2, referencing material from Stage 1. The Tribunal determined an objective and fair-minded observer would understand the rationale behind such questions and not see them giving rise to there being a real possibility of bias.

51. The Tribunal considered Ms Stevens' submission that its questions had been akin to a cross-examination that intended to advance a case theory which had not been put by the GMC. The Tribunal accepted that it asked questions that were, on occasions, direct. However, it did not accept that these questions were of an adversarial style, as Ms Stevens suggested. The Tribunal believed that it was necessary to ask direct questions as a result of Dr Olujide's lengthy, sometimes rambling and sometimes unclear answers.

52. The Tribunal has considered the transcripts of Dr Olujide's oral evidence. There was nothing to suggest that its questions were excessive, hostile, or oppressive in any way. The Tribunal gave Dr Olujide regular breaks and accommodated his request to adjourn early for the day. The Tribunal accepted that it asked direct questions, however it is entitled to do so as part of its role as an inquisitorial Tribunal. The Tribunal took into account the cases which Ms Stevens referred to in her submissions, however it concluded that these cases contained instances of questioning whose intent, form and extent was not evident in this hearing.

53. The Tribunal therefore considered that questions such as '*Can you answer the question?*' were not intended to advance a case theory but asked in a manner intended to elicit a clear answer from Dr Olujide. The Tribunal went to some lengths in order to ensure Dr Olujide did not misinterpret the intent behind its questions e.g. by saying it was not using a word pejoratively. The Tribunal determined that a fair minded and objective observer would understand that these probing questions were asked to clarify the evidence which Dr Olujide was giving the Tribunal, and not to advance any case theory the Tribunal may have, as submitted by Ms Stevens.

54. Finally, the Tribunal considered the submission made by Ms Stevens that the Tribunal believed Dr Olujide had or may have acted in a paternalistic manner towards Patient A. The Tribunal considered that when it asked questions of Dr Olujide exploring why he had sterilised Patient A, and whether he believed it was in her best interest, it was not attempting

to suggest reasons to Dr Olujide, but was exploring the context of his behaviour and his reasons for acting as he did. The Tribunal was not imposing upon Dr Olujide its own interpretation of events but attempting to give him an opportunity to explain his actions. The Tribunal determined that the fair minded and objective observer would be of the same view.

55. Ms Stevens has further made a submission that the Tribunal has failed to take into account the mental state of Dr Olujide. The Tribunal saw no visible signs of distress nor did Dr Olujide voice his distress, discomfort, or upset with the style of questioning. The Tribunal would have made appropriate accommodations if it was concerned that Dr Olujide was struggling to cope. Indeed, the Tribunal did so when it observed that Dr Olujide was or may be experiencing such things.

56. The Tribunal also noted an exchange in which it asked Dr Olujide whether it would inconvenience him if the Tribunal was to sit earlier, and he answered in the negative. Ms Stevens then interjected, stating that Dr Olujide was shaking his head because he '*wanted to please'*. The Tribunal also took into account multiple occasions on which Ms Stevens expressed concerns for Dr Olujide's wellbeing (not whilst he was giving evidence), despite no evidence of such being put forward by Dr Olujide himself or any visible or audible signs of discomfort or distress. The Tribunal therefore concluded that a fair minded and objective observer would not see the Tribunal's behaviour as possibly paternalistic. The fair minded and objective observer could well conclude that Ms Stevens herself could be acting in a paternalistic manner towards Dr Olujide by ignoring and contradicting his answers.

57. The Tribunal concluded that a fair minded and informed observer would understand that the questions asked to Dr Olujide were intended to elicit a better understanding of the issues in order to assess Dr Olujide's level of insight and remediation, as well as the risk of repetition. As such there was no real possibility of bias.

58. The Tribunal therefore determined that none of the submissions raised by Ms Stevens, individually or collectively, would give rise to a fair minded and informed observer believing that there was a real possibility of bias. Accordingly, the Tribunal refuses the application to recuse itself.