

PUBLIC RECORD

Dates: 26/09/2022 - 29/09/2022

Medical Practitioner's name: Dr Patrick CHIAM

GMC reference number: 6045316

Primary medical qualification: MB BCh 2002 University of Wales

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

Summary of outcome

Erasure

Tribunal:

| | |
|--------------------------|--------------------|
| Legally Qualified Chair | Mr Simon Bond |
| Lay Tribunal Member: | Mr Keith Moore |
| Medical Tribunal Member: | Dr Bridget Langham |

| | |
|-----------------|-------------------|
| Tribunal Clerk: | Ms Fiona Johnston |
|-----------------|-------------------|

Attendance and Representation:

| | |
|-----------------------|-----------------------------|
| Medical Practitioner: | Present and not represented |
| GMC Representative: | Mr Richard Holland, Counsel |

Attendance of Press / Public

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

Overarching Objective

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

Determination on Impairment - 28/09/2022

Background

1. Dr Chiam qualified in 2002 from University of Wales and gained full GMC registration in 2003. Dr Chiam started work as a Consultant Ophthalmologist in Sheffield Teaching Hospitals NHS Trust ('the Trust') in December 2016.
2. The Allegation that has led to Dr Chiam's hearing can be summarised as follows. Dr Chiam is alleged to have dishonestly carried out private work, contrary to his job plan with the Trust, on 28 occasions between 12 March 2018 and 9 January 2019. It is alleged that his conduct in that regard was financially motivated because he was paid, on those occasions, both by the Trust and by the private company to whom he was providing his services. Dr Chiam is also alleged to have been dishonest on 30 May 2018 by claiming to be unavailable for work at the Trust due to his children being unwell on that day, when he was in fact conducting private work at Barlborough Hospital. It is alleged his conduct on 30 May 2018 was financially motivated and compromised patient safety. It is also alleged that Dr Chiam was dishonest on 21 June 2018 in that he told a colleague that he was unable to provide cover because he was reporting at the Northern General Eye Centre; it is alleged that his statement in that regard was untrue. It is also alleged that Dr Chiam dishonestly failed to amend a study leave application that he submitted to the Trust in respect of 5 July 2018. It is alleged that his conduct in that regard was financially motivated because he was working, on a private basis, at Retford Hospital on 5 July 2018, whilst also being paid by the Trust. It is also alleged that Dr Chiam lied to Dr A during an investigation meeting on 3 September 2018 by (a) falsely asserting that he had been at home on 5 July 2018 and (b) stating that he undertook private work on some Saturdays.
3. Following the Trust's investigation in August 2018, which led to Dr Chiam's dismissal in January 2019, the Trust raised concerns with the GMC.

The Allegation and the Doctor's Response

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

1. On one or more of the occasions set out in Schedule 1 you carried out private work and were unavailable to carry out your clinical duties as per your job plan with Sheffield Teaching Hospitals NHS Trust ('the Trust'). **Admitted and found proved**
2. You knew you should not be undertaking private work on the dates set out in Schedule 1 because it contravened your job plan. **Admitted and found proved**
3. Your actions as described at paragraph 1:
 - a. were dishonest by reason of paragraph 2; **Admitted and found proved**
 - b. were financially motivated because you were paid for the private work set out in Schedule 1 as well as being paid by the Trust. **Admitted and found proved**
4. On 30 May 2018 you contacted the Trust and told them that you could not attend work that day because:
 - a. your 'children were unwell and you needed to take them to the hospital' or words to that effect; **Admitted and found proved**
 - b. 'of lack of sleep' or words to that effect; **Admitted and found proved**
5. On 31 May 2018 you sent an email to the Trust in which you stated that you did not attend work on 30 May 2018 because you 'had to take them [your family] to hospital and as a result didn't sleep from night before. Certainly was not up to operating.' **Admitted and found proved**
6. You knew:
 - a. you did not attend work on 30 May 2018 because you were working at Barlborough Hospital; **Admitted and found proved**
 - b. your comments at paragraph 4 and 5 were untrue. **Admitted and found proved**
7. Your actions as described at paragraph(s):

**Record of Determinations –
Medical Practitioners Tribunal**

- a. 4 and 6.a. were financially motivated because you were paid for the private work at Barlborough Hospital as well as being paid by the Trust; **Admitted and found proved**
 - b. 4 compromised patient safety; **Admitted and found proved**
 - c. 4 and 5 were dishonest by reason of paragraph 6. **Admitted and found proved**
8. On 21 June 2018 the Trust asked you to attend a clinic that day to cover a colleague's sickness absence. You told the Trust that you were reporting at the Northern General Eye Centre ('NGEC') and could not provide cover. **Admitted and found proved**
9. You knew:
- a. you were not reporting at the NGEC on 21 June 2018; **Admitted and found proved**
 - b. your comments at paragraph 8 were untrue. **Admitted and found proved**
10. Your actions as described at paragraph 8 were dishonest by reason of paragraph 9. **Admitted and found proved**
11. You submitted an application to the Trust for study leave from 3 July 2018 to 5 July 2018, which was granted on or around 18 May 2018, to attend a conference ('Study Leave Application'). **Admitted and found proved**
12. When you became aware that the conference was not scheduled to take place on 5 July 2018, you failed to amend the Study Leave Application. **Admitted and found proved**
13. You knew that:
- a. the conference would not take place on 5 July 2018; **Admitted and found proved**
 - b. you should have amended the Study Leave Application; **Admitted and found proved**
 - c. you were scheduled to work at Retford Hospital on 5 July 2018. **Admitted and found proved**
14. Your omission as described at paragraph 12 was:
- a. dishonest by reason of paragraph 13; **Admitted and found proved**

- b. financially motivated because you were paid for the private work at Retford Hospital as well as being paid by the Trust. **Admitted and found proved**
15. On 3 September 2018 when asked by Dr A:
- a. what you were doing on 5 July 2018 as you were absent for work you said you ‘stayed at home’ or words to that effect; **Admitted and found proved**
 - b. what work you did outside of the Trust you said you ‘did private work in a Newmedica clinic... on some Saturdays’ or words to that effect. **Admitted and found proved**
16. You knew that:
- a. you weren’t at home but were working at Retford Hospital on 5 July 2018; **Admitted and found proved**
 - b. you carried out private work on other days of the week apart from Saturdays; **Admitted and found proved**
 - c. your comments at paragraph 15 were untrue. **Admitted and found proved**
17. Your actions as described at paragraph:
- a. 15.a. were dishonest by reason of paragraph 16.a and 16.c; **Admitted and found proved**
 - b. 15.b. were dishonest by reason of paragraph 16.b. to 16.c. **Admitted and found proved**

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

The Admitted Facts

4. At the outset of these proceedings, Dr Chiam made admissions to all paragraphs and sub-paragraphs 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.

5. Following Dr Chiam’s admissions the Tribunal raised with the parties the accuracy of Schedule 1 to the Allegation. It noted that one of the witness statements referred to Dr Chiam having had a new job plan in October 2018. The Tribunal therefore queried whether

the final four dates listed in Schedule 1 were correct in cross-referencing to Dr Chiam's August 2018 job plan. Having taken instructions, Mr Holland, Counsel on behalf of the GMC, submitted that the October job plan had simply clarified Dr Chiam's ability to undertake private work but made no other relevant substantive change. As a result, he submitted that the various references to job plans in Schedule 1 were correct. Dr Chiam said he accepted that explanation and submitted that the admissions that he had made to the Allegation were unchanged.

Factual Witness Evidence

6. Dr Chiam gave oral evidence at the hearing and provided his own witness statement, dated 29 May 2022.

Documentary Evidence

7. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited to witness statements, references, testimonials, 360 feedback, Dr Chiam's appraisals and a previous MPT record of determination, involving Dr Chiam, from 2010 ('the 2010 Tribunal').

The Tribunal's Determination on Impairment

8. 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 Chiam's fitness to practise is impaired by reason of his misconduct.

Submissions

On behalf of the GMC

9. Mr Holland submitted that the question of impairment was a matter for the Tribunal to determine, exercising its own independent judgment, taking into account the overriding objective, which includes the risk to patient safety, the public interest in maintaining public confidence in the profession and maintaining standards within the profession.

10. He submitted that this case is not one where patient safety is front and centre of the concerns. Mr Holland stated that, although Dr Chiam's dishonesty on the 30 May 2018 did have the potential to put a patient's eyesight at risk, that fortunately did not occur.

11. Mr Holland submitted that the Tribunal might consider the case to be one where maintaining public confidence in the profession and maintaining standards within the profession requires a finding of impairment to be made.

12. In terms of impairment, he referred to the approach set out by Dame Janet Smith in the Fifth Shipman Report, as referred to in the case of *CHRE v NMC & Grant* [2011] EWHC 927 (Admin), as follows:

"Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination 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."*

13. Mr Holland invited the Tribunal to find that Dr Chiam was guilty of a serious and sustained pattern of dishonesty which undermines confidence in the profession, and which breached fundamental tenets of the medical profession, namely honesty and probity. He stated that Dr Chiam's misconduct comprised a serious and sustained pattern of dishonesty conducted over a period in excess of eight-months.

14. Mr Holland submitted that Dr Chiam had, in cross examination, largely accepted that a number of sections of Good Medical Practice ('GMP') had been breached. In particular paragraph 68, which states that doctors must be honest and trustworthy in all communications with patients and colleagues. Mr Holland submitted that Dr Chiam had not been honest and trustworthy in his communication with Ms C on the 30 May 2018, nor in his communication with Dr D on the 30 and 31 May 2018. Mr Holland also submitted that Dr Chiam had not been honest and trustworthy in his communication with Ms E on 21 June 2018 and had not been honest and trustworthy in his study leave application. He further submitted that Dr Chiam had not provided all relevant information to Dr A on 3 September during a formal investigation meeting regarding the extent of his private practice.

15. Mr Holland submitted that Dr Chiam was not honest in his financial dealings with the Trust in that he had been arranging to attend private clinics for significant sums of money at times when he should have been available to work for the Trust. Mr Holland stated that Dr Chiam was in effect, being paid twice on such occasions, both by the Trust and by the private clinics.

16. He submitted that, although Dr Chiam was careful to say he was not offering them as excuses, Dr Chiam repeated a number of times that other people at the Trust were engaged in similar conduct, that he did lots of extra work for the Trust and rarely, if ever, took sick

leave. Mr Holland submitted that Dr Chiam had agreed in cross examination that, if he was undertaking private work, he was not available as required to step in for emergencies, or to cover colleagues at the Trust.

17. He submitted that the genesis of Dr Chiam's behaviour was a misplaced sense of entitlement, namely his belief that he was being treated unfairly by the Trust in regard to the opportunity to undertake private work. Mr Holland reminded the Tribunal that Dr Chiam said a number of times in evidence that the Trust finally allowed him, from October 2018, two days a month on which to undertake private work. Mr Holland submitted that the correct way for Dr Chiam to have addressed the issue was either to negotiate with the Trust, be patient until he was more senior or simply to find another job.

18. Mr Holland submitted that Dr Chiam was a very talented and skilled doctor, but one who had, nevertheless, been dismissed by his employer on two separate occasions for gross misconduct relating to dishonesty.

19. Mr Holland said that the Tribunal cannot be confident that this behaviour would not be repeated given these were not isolated incidents. He submitted that Dr Chiam had engaged in serious dishonesty which was persistent, on more than one occasion within a clinical setting over a significant period of time. He stated that the admitted charges are capable of significantly undermining the public's trust in the profession.

20. To conclude, Mr Holland submitted that the public and the profession would be surprised if the facts found in this case did not lead to a finding of impairment, particularly given the previous fitness to practice concerns which related to dishonesty and probity.

Dr Chiam

21. Dr Chiam submitted that he takes full responsibility for his wrongdoings and appreciates the negative impact they had on his patients and colleagues, his surgical team, his family and also on the public's trust in the profession. He stated that he is sorry and deeply regrets his dishonesty.

22. He submitted that he has punished his wife by causing her many sleepless nights and through inattention with his children when he was worrying about this ongoing case. He said he hopes that, in some way, he has proven to the Tribunal that he has shown insight at an early stage. He reminded the Tribunal that he made admissions to the allegations at the outset of the hearing.

23. He submitted that having to face another MPT hearing, after the 2010 Tribunal, was difficult and he recognizes that his actions have affected the trust of the public and patients in the profession. Dr Chiam acknowledged that his fitness to practise was impaired and he said that he wanted to acknowledge his wrongdoings, face his demons and work even harder in order to practise with probity and honesty.

24. He submitted that after the Trust's investigation in August 2018 he had his first reflection and discussed this with the help of a senior consultant colleague.

25. Mr Chiam directed the Tribunal to various letters and testimonials from work colleagues as well as his recent appraisals. He submitted that he has reflected on his thought processes and analysed why he would have behaved in such a way. He said that he has embarked on a program of learning, including courses and reading about how to manage this situation. He said he has taken time to reflect on his actions in 2018 and he is determined to have a full understanding of his earlier actions and to practise with the utmost probity.

26. Dr Chiam submitted that he is aware that his errors of judgment should not have occurred and had far reaching consequences for his career. He stated that he has reflected carefully on his actions and has sought advice from senior colleagues about his conduct. He referred the Tribunal to his appraisals as evidence of his contrition as well as how he has coped with the stresses relating to the loss of his job at the Trust, followed by the GMC's investigation.

27. Dr Chiam submitted that he has undertaken a number of sessions of reflection and discussion with different mentors and he had sought out advice on how to manage issues of probity. This had led to him reading relevant materials and attending a three-day course on maintaining professional boundaries. He said that these materials had included GMP, and articles and books on the nature of the doctor/ patient relationship and the psychology of cheating. He stated that he is now more likely to share difficult decisions about work matters with this wife or a close clinical colleague before taking unilateral action.

28. Dr Chiam submitted that he has been practising in the independent healthcare sector for nearly four years with no further probity issues. As a result he stated that the likelihood of him repeating his conduct of working privately, during NHS time, is non-existent.

29. He submitted that the Tribunal could take comfort from his recognition of the issues in this case and his understanding of how he would ensure that proper standards are met by him in the future. With regard to remediation, he acknowledged that misconduct through dishonesty is not easily remediated; however, he stated that he has worked hard on an honest career since leaving the Trust and there had been no repetition of his behaviour.

The Relevant Legal Principles

30. The Tribunal had regard to the advice given by the Legally Qualified Chair. The Legally Qualified Chair set out the approach to be taken by the Tribunal and referred to case law relevant to the issue of impairment of fitness to practise, including *CHRE v NMC & Grant* (2011) EWHC 927 (Admin), *Nakash v Metropolitan Police Service & GMC* (2014) EWHC 3810, *Cheatle v GMC* (2009) EWHC 645, *Roylance v GMC (no2)* (2000) 1 AC 311, *Cohen v GMC* (2008) EWHC 581 and *PSA v GMC & Igwilo* (2016) EWHC 524.

31. 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.

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

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

34. The Tribunal had particular 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 provided a helpful approach to the determination of impairment:

'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.'*

The Tribunal's Determination on Impairment

Misconduct

35. In determining whether Dr Chiam's fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amounted to misconduct. It also noted that 'Misconduct' is not defined by statute but it has been said to

be serious professional misconduct or conduct which a fellow professional would regard as deplorable.

36. The Tribunal considered that Dr Chiam's dishonesty was repeated and persistent. He had admitted dishonestly undertaking private work on 28 occasions between 12 March 2018 and 9 January 2019, at a time when he was contracted to work for the Trust. He had admitted that his conduct in that regard had been financially motivated and that he had, in effect, been paid twice on those occasions (i.e. both by the Trust and by the private company to whom he was providing his services).

37. Dr Chiam had also admitted being dishonest when he told colleagues at the Trust that he was unable to attend work on 30 May 2018. The Tribunal took into account that Dr Chiam had lied on three separate occasions about his availability on 30 May – first, during a telephone call to Ms C on 30 May, second during a telephone call to Dr D on 30 May and thirdly in an email to Dr D 31 May 2018. Dr Chiam had claimed that he was unable to attend work at the Trust on 30 May because his children were unwell and/or because of a lack of sleep. However, those claims were false and Dr Chiam had, in fact, chosen to work, on a private basis, at Barlborough Hospital. Dr Chiam admitted that his actions, in that regard, were both dishonest and financially motivated.

38. The Tribunal regarded Dr Chiam's behaviour, in dishonestly absenting himself from work at the Trust on 30 May 2018, as particularly serious. Dr Chiam had been scheduled to undertake a joint surgical case, on that day. That case involved a patient for whom the procedure was clinically urgent because the patient's condition was sight threatening if left untreated. In view of Dr Chiam's non-attendance at the Trust on 30 May 2018, the patient's surgery was rearranged for the following day. The Tribunal noted that rescheduling that patient's procedure had involved inconvenience not only for the patient concerned but also for less urgent patients whose consultations were themselves rescheduled to make way for the urgent case. Dr Chiam's absence on 30 May 2018 had also inconvenienced a number of his colleagues who had, 'moved heaven and earth' (as one colleague described it) to reschedule the urgent surgery. Dr Chiam admitted that his conduct on 30 May 2018 had compromised patient safety, although the Tribunal noted that there was no evidence of any actual adverse clinical outcomes for the affected patients.

39. Dr Chiam admitted that, on 21 June 2018, he dishonestly claimed to be reporting at the Northern General Eye Centre and, as a result, had stated that he was unavailable to provide cover for a colleague's sickness absence. He further admitted that he was at home playing with his children.

40. Dr Chiam also admitted that he had completed a study leave application to the Trust which included a day's leave, to attend a conference, on 5 July 2018. Dr Chiam admitted that the conference had not taken place on 5 July 2018 and that he should have amended his study leave application to reflect that fact. Dr Chiam admitted that he had been working, on a private basis, at Retford Hospital on 5 July 2018. He admitted that his conduct in that regard

had been both dishonest and financially motivated (because he had been paid both by the Trust and by Retford Hospital).

41. On 3 September 2018 Dr Chiam attended an investigation meeting with Dr A of the Trust to discuss allegations relating to his conduct on 30 May 2018 and 21 June 2018 and in relation to his study leave application. Dr Chiam admitted that, during the course of that meeting, he dishonestly told Dr A that he had, 'stayed at home' on 5 July 2018 and that he undertook private work, 'on some Saturdays'.

42. The Tribunal noted that, following the investigation meeting on 3 September 2018 (and despite being aware that the Trust was investigating allegations relating to his probity) Dr Chiam had dishonestly worked a further four separate private sessions at Barlborough Hospital on days when he was contracted to work for the Trust.

43. The Tribunal considered that Dr Chiam's conduct represented a significant departure from the expected standards of conduct and behaviour referred to in paragraphs 1, 35, 37, 56, 65, 68, 73 and 77 of GMP.

1 Patients need good doctors. Good doctors make the care of their patients their first concern: they... are honest and trustworthy, and act with integrity ...

The Tribunal considered that Dr Chiam had not been honest or trustworthy, nor had he acted with integrity, given his repeated acts of dishonesty as described in the Allegation.

The Tribunal also took the view that Dr Chiam had put his own interests, namely his financial motivation to undertake private work, ahead of the interests of the Trust's patient who was scheduled to receive urgent surgery on 30 May 2018. The Tribunal considered that Dr Chiam had not made the care of that patient his first concern as expected by GMP.

35 You must work collaboratively with colleagues, respecting their skills and contributions.

The Tribunal took the view that Dr Chiam had breached this paragraph of GMP by dishonestly absenting himself from his duties at the Trust as described in the Allegation. In particular, the Tribunal considered that Dr Chiam's dishonest actions on 30 May 2018 and on 21 June 2018 had caused inconvenience to his colleagues and was a failure by him to work collaboratively.

37 You must be aware of how your behaviour may influence others within and outside the team.

For the reasons stated above, the Tribunal considered that Dr Chiam had put his own interests above those of his colleagues. It took the view that Dr Chiam breached this paragraph of GMP by failing to take account of the effect of his behaviour, as described in the Allegation, on his colleagues at the Trust.

56 You must give priority to patients on the basis of their clinical need if these decisions are within your power...

The Tribunal considered that Dr Chiam had breached this paragraph of GMP by prioritising his financial interest in undertaking private work, over the interests of the patient whose surgery he was scheduled to perform on 30 May 2018.

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

The Tribunal concluded that Dr Chiam's dishonesty seriously undermined the public's Trust in the profession. It took the view that a reasonable member of the public, in possession of the facts of this case, would be particularly concerned by Dr Chiam's conduct:

- on 30 May 2018, when he lied to the Trust in order to undertake private work, rather than meet his commitment to a patient requiring urgent surgery; and
- in dishonestly undertaking private work with the consequence that he was paid, on such occasions, both by the NHS and by a private healthcare provider.

68 You must be honest and trustworthy in all your communication with colleagues...

The Tribunal considered that Dr Chiam's repeated dishonesty, as described in the Allegation, breached this paragraph of GMP.

73 You must cooperate with formal inquiries and complaints procedures and must offer all relevant information while following the guidance in Confidentiality.

The Tribunal considered that Dr Chiam had not properly cooperated with the Trust's investigation into his misconduct, in that he had lied to Dr A during their meeting on 3 September 2018. In his oral evidence, Dr Chiam stated that he had admitted to the Trust those aspects of his misconduct for which there was supporting evidence. However, he accepted that he had not volunteered information to Dr A in relation to other matters, such as the full extent of his private work.

77 You must be honest in financial and commercial dealings with... employers...

The Tribunal took the view that Dr Chiam had breached this paragraph of GMP in that he had dishonestly undertaken private work for financial gain, as described in the Allegation, and had lied to Dr A about the extent of that work.

44. The Tribunal concluded that Dr Chiam’s conduct fell seriously short of the standards expected of a doctor. The Tribunal therefore concluded that Dr Chiam’s conduct amounted to misconduct that was serious.

Impairment

45. The Tribunal, having found that the facts found proved amounted to misconduct, went on to consider whether, as a result of that misconduct, Dr Chiam’s fitness to practise is currently impaired.

46. The Tribunal considered whether Dr Chiam’s misconduct was capable of being remediated, has been remediated, and whether it was likely to be repeated. In so doing, it considered whether there was evidence of Dr Chiam’s insight into his misconduct and any steps taken by him to remediate it.

47. The Tribunal took into account that doctors occupy a position of privilege and trust. They are expected to act in a manner which maintains public confidence in them and in the medical profession and to uphold proper standards of conduct. The Tribunal recognised that dishonesty is a breach of a fundamental tenet of the profession. Being honest and trustworthy and acting with integrity are at the heart of medical professionalism. The Tribunal also determined that Dr Chiam’s dishonesty, and particularly that on 30 May 2018, had the potential to put patients at risk.

48. The Tribunal noted that the 2010 Tribunal found that Dr Chiam’s fitness to practise was impaired and imposed a sanction of 3 months suspension. The 2010 Tribunal included allegations that Dr Chiam had:

- dishonestly made inaccurate representations in his CV and in an application for a Specialist Registrar post in Ophthalmology on the All Wales Higher Training Programme; and
- had in 2009 been convicted and sentenced for offences which had involved him writing a number of false prescriptions, some of which falsely bore the names of doctors with whom Dr Chiam had previously worked.

49. The Tribunal considered that Dr Chiam’s reflection statement dated November 2020, expressed remorse and indicated that he had reflected upon his dishonesty as set out in the Allegation. However, the Tribunal was concerned that, in his witness statement dated 29 May 2022, and in his oral evidence, Dr Chiam sought to both justify and minimise his misconduct. Whilst Dr Chiam told the Tribunal that he did not want to make excuses, he nevertheless referred, on a number of occasions, to the fact that he had an excellent sickness record at the Trust, that he undertook his admin work outside his usual working hours, his belief that other

colleagues at the Trust also undertook surreptitious private work and that he was treated unfairly (with regard to private work) compared to some of his colleagues at the Trust. The Tribunal also took the view that Dr Chiam had, in his oral evidence, sought to minimise the urgency of the surgery needed by the patient on 30 May 2018.

50. The Tribunal concluded that Dr Chiam's behaviour in absenting himself from the Trust to undertake private work, derived from a feeling of entitlement to do such work and his perception that the Trust had unfairly restricted the amount of private work that he could do. Rather than address his concern in a professional manner, for example by raising the matter with senior colleagues at the Trust or by accepting the situation, Dr Chiam chose to undertake private work in a manner that was dishonest.

51. In his oral evidence Dr Chiam acknowledged that there was something, '*fundamentally wrong*' with him and that he was trying to change. Whilst the Tribunal considered that Dr Chiam's statement in that regard demonstrated some degree of insight, it was concerned that his reflection statement was somewhat superficial and did not address the fundamental issue that Dr Chiam acknowledged. In addition, the Tribunal noted that Dr Chiam had not referred, in his reflective statement, to the 2010 Tribunal or demonstrated that he understood or reflected upon the reasons why he had, notwithstanding the 2010 Tribunal, committed further acts of dishonesty. Finally, the Tribunal remained concerned that irrespective of the 2010 Tribunal Dr Chiam's has a tendency to lie when confronted with certain problems and to put his own interests ahead of those of his patients and colleagues. The Tribunal considered that Dr Chiam could not adequately express in evidence how he could change the dishonest pattern in his behaviour. As a result, the Tribunal concluded that Dr Chiam's insight into his misconduct is lacking.

52. The Tribunal considered that remediating dishonesty is difficult but nonetheless possible. The Tribunal took into account Dr Chiam's efforts at remediation, which had included attending a relevant course and reading relevant materials on issues relating to probity and honesty. The Tribunal noted, however, that some of that remediation had taken place in 2018, following which Dr Chiam had dishonestly worked at Barlborough Hospital in January 2019. In addition, there was no evidence of any remediation since October 2020. The Tribunal concluded that, whilst Dr Chiam had taken some steps to remediate his misconduct, he must develop greater insight before effective remediation can take place.

53. The Tribunal noted that Dr Chiam's misconduct occurred four years ago and there was no evidence of any repetition of the misconduct. However, the Tribunal took into account that Dr Chiam had told the 2010 Tribunal that the risk of him repeating his dishonest behaviour was '*infinitesimally remote*'. Whilst he sought to give the Tribunal a similar reassurance, it could not, given his lack of insight and the repeated nature of his dishonesty,

be satisfied that Dr Chiam would not be dishonest in the future. The Tribunal considered that there was a significant risk of repetition.

54. The Tribunal took into account a number of positive testimonials and ‘thank you’ cards which attest to Dr Chiam’s competence as a surgeon and that he is well liked by colleagues and patients. It noted there is no concern about his clinical practice. Indeed, the Tribunal noted evidence from his current employer that Dr Chiam is in the ‘highest bracket of cataract surgeons in the UK’ and that they have recently appointed him as a local clinical lead. However, Dr Chiam acknowledged that a number of those providing testimonials may not have been aware of the outcome of the 2010 Tribunal.

55. The Tribunal accepts that Dr Chiam has a long path to remediation and that his insight is developing. In the absence of sufficient evidence of insight or the steps he had taken to address the concerns in this case, the Tribunal was not satisfied that Dr Chiam has fully remediated his misconduct.

56. Overall, the Tribunal determined that a finding of impairment was necessary under two limbs of the overarching objective, namely, *‘to promote and maintain public confidence in the medical profession and to promote’* and *‘to maintain proper professional standards and conduct for the members of that profession’*.

57. The Tribunal therefore determined that Dr Chiam’s fitness to practice is impaired by reason of misconduct.

Determination on Sanction - 29/09/2022

58. Having determined that Dr Chiam’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

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

Submissions

60. On behalf of the GMC, Mr Holland submitted that that the only appropriate sanction in this case, that meets the overarching objective, is erasure. He said that the GMC acknowledged from the outset that Dr Chiam is, plainly and demonstrably, a very able doctor, well-liked by his colleagues and patients. Mr Holland acknowledged that Dr Chiam provides good care to his

patients and had particularly done so in the context of the pandemic. Mr Holland submitted that, whilst the public should not ordinarily be denied access to such doctors, there is an unfortunate other side to Dr Chiam, from which the public and the wider profession need to be protected.

61. Mr Holland submitted that paragraph one of GMP makes clear that a cornerstone requirement of being a good doctor is that they are honest and trustworthy and act with integrity. He stated that Dr Chiam has engaged in persistent and serious dishonesty on more than one occasion. He has now twice been dismissed for gross misconduct by his employer. Mr Holland submitted that the Sanctions Guidance ('the SG') makes clear that evidence of clinical competence cannot mitigate serious and/ or persistent dishonesty. This is because it can undermine the trust that the public place in the medical profession. Health authorities should be able to trust the integrity of doctors and, where a doctor undermines that trust, there is a risk to public confidence in the profession. Mr Holland submitted that, in such circumstances, taking no action would plainly be inappropriate.

62. Mr Holland referred the Tribunal to paragraph 109 of the SG. He submitted that, in cases where there has been particularly serious departure from GMP, where such behaviour is fundamentally incompatible with being a doctor and in cases of dishonesty which was persistent and / or covered up, then erasure may be appropriate.

63. He submitted that, in this case, there had been many departures from GMP, as outlined in the Tribunal's impairment determination. Mr Holland submitted that certain of those departures were particularly serious in their own right, but when taken together undoubtedly exceeded the high threshold required to amount to behaviour that was fundamentally incompatible with being a doctor.

64. Mr Holland submitted that Dr Chiam's dishonesty was persistent. Mr Holland stated that It occurred over a period of more than eight months and continued, even after the meeting on the 3 September 2018, which should have been a warning to the doctor that such behaviour was not acceptable. He submitted that Dr Chiam had covered up his dishonesty, for example by lying during the disciplinary investigation meeting on the 3 September 2018. He further submitted that on the 30 and 31 May 2018, Dr Chiam lied to cover up the fact that he had inappropriately booked a private clinic.

65. Mr Holland submitted that the 2010 Tribunal decided not to erase the doctor's registration, but to suspend him, however much has changed since that decision. He submitted that, firstly, the doctor is no longer a young doctor at the start of his career, as he was when he committed his offences in 2006 to 2009. Secondly, the instances of misconduct that concern this hearing, taken together, are arguably more serious, both in terms of their persistence and his attempts to cover them up. Mr Holland submitted that the 2018 misconduct is certainly not less serious than that which concerned the 2010 Tribunal. Thirdly, Dr Chiam told the 2010 Tribunal that there was

not a remote chance of him repeating his misconduct and that is a promise he has breached. Therefore, submitted Mr Holland, the risk of repetition cannot be ruled out, and it must be considered high.

66. Mr Holland submitted that Dr Chiam finds himself before a fitness to practise Tribunal for the second time. He submitted that Dr Chiam's conduct was fundamentally incompatible with him remaining registered as a doctor and, in order to maintain proper professional standards and maintain confidence in the profession, the only proper sanction is erasure.

67. Dr Chiam submitted that he accepts the Tribunal's impairment determination and its concern that, irrespective of the 2010 Tribunal, he has a tendency to lie when confronted with certain problems. He said he has reflected on the impairment determination over the last few hours.

68. Dr Chiam submitted that he recognises the potential problems that could have happened to the patient on the 30 May 2018. He acknowledged that the patient required the operation and he recognised that staff had to move heaven and earth to make that happen. He apologised for causing so many issues for all the parties involved.

69. Dr Chiam submitted that he recognises his sense of entitlement and that it was misplaced and ill judged. He explained the references he made to his excellent sickness record and completing admin work outside usual working hours were not meant to be an excuse to allow him to work privately. He submitted that his actions have had a severe impact on public confidence in the medical profession and he recognised that professional standards need to be maintained.

70. Dr Chiam submitted that his aim is focusing on the delivery of good cataract surgery care with integrity and to a very high standard. He stated that he does not seek to minimise his misconduct and dishonesty, but submitted that erasure would be unreasonable, disproportionate, and unfair. He submitted that the Tribunal would rightly consider that public confidence in the profession and maintaining proper professional standards should be maintained. However, Dr Chiam submitted that this should not be carried to the extent that it is necessary to sacrifice the career of an otherwise very competent and useful doctor, who presents no danger to the public, in order to satisfy a demand for punishment. He submitted that a long period of suspension would send a very strong signal to the profession and the public that such misconduct should not be tolerated.

71. Dr Chiam submitted that the authors of the testimonials before the Tribunal, who are aware of the current proceedings and the 2010 Tribunal, should be considered as fundamental witnesses.

72. He referred the Tribunal to the bundle of testimonials and quoted from a number of those testimonials, which spoke very highly of Dr Chiam. He also referred the Tribunal to a number of ‘*thank you*’ cards which he had collected from patients and colleagues since leaving the Trust.

73. Dr Chiam submitted that the 2010 Tribunal is in the public domain and he was candid with patients about that hearing if he was questioned about it. He stated that patients who knew about the 2010 Tribunal invariably allowed him to treat them, and he often ended up with a better rapport with such patients.

74. Dr Chiam submitted that there has been a significant passage of time since the events of 2018. He reminded the Tribunal that he practises in a patient facing role and is a hardworking and competent doctor who has excellent feedback from patients. He told the Tribunal he has been appraised three times and revalidated since leaving the Trust and there has been no repeat of any incidents. With regard to repetition, Dr Chiam submitted that he now works in the independent sector as a locum, on a zero-hour contract and, consequently, won't be paid if he does not turn up for work.

75. Dr Chiam submitted that he is fully aware that he needs to maintain professional standards in order to maintain trust and public confidence in the profession. He said it would be wrong to deprive patients and the public of a doctor performing at his level by erasure. This was particularly relevant now, given the fact that waiting lists in the NHS are at an historical all time high after the COVID pandemic. Furthermore, he said that the fact that many patients and colleagues know about his misconduct clearly indicates that erasure is not necessary.

76. In support of his submissions Dr Chiam referred to the cases of **Dr Nicholas-Pillai v GMC [2015] EWHC 305 Admin** and **Bawa-Garba v GMC (2018) EWCA Civ 1879**. Dr Chiam concluded by submitting that erasure would be disproportionate and harsh in his circumstances and that a period of suspension was an appropriate sanction.

The Tribunal’s Determination on Sanction

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

78. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Chiam's interests with the public interest. It considered, and had regard to, the overarching objective, which includes to protect, promote, and maintain the health, safety, and wellbeing of the public, promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of the profession.

Mitigating and aggravating factors

79. The Tribunal has already set out its determinations on 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 Chiam's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

80. The Tribunal identified the following aggravating factors at this stage:

- Dr Chiam's conduct was a clear departure from several principles of GMP, as set out in the Tribunal's determination on impairment;
- Dr Chiam's dishonesty was sustained and repeated; much of it was financially motivated.
- The Tribunal considered that Dr Chiam had lied on 30 and 31 May 2018 in order to cover up his dishonest actions in working at Barlborough Hospital on 30 May 2018. In addition, he had lied to Dr A on 3 September 2018 in order to cover up the dishonesty relating to his study leave application and the extent of his dishonest, private working activities;
- Dr Chiam's previous history of regulatory action involving dishonesty, namely the 2010 Tribunal;
- Dr Chiam's lack of insight into his misconduct;
- Dr Chiam's failure to work collaboratively with his colleagues – for example on 30 May 2018 and on 21 June 2018;
- Dr Chiam's actions on 30 May 2018 meant that a patient requiring urgent treatment had to be rescheduled and caused inconvenience to other patients;

81. The Tribunal identified the following mitigating factors:

- Dr Chiam has made some attempts at remediation by attending courses, reading relevant materials and having discussions with mentors and colleagues;
- Dr Chiam has worked at a high level without complaint in the four years since the incident; and
- Dr Chiam made full admissions to the dishonesty alleged by the GMC.

82. The testimonials from Dr Chiam’s colleagues attest to the fact that he is a skilled clinician and is a well-regarded colleague. The numerous ‘thank you’ cards received by Dr Chiam are also evidence that he is well-respected and liked by patients and colleagues. The Tribunal took into account the public interest in retaining the skills and services of an excellent clinician. However, it was mindful that evidence of clinical competence cannot mitigate serious and persistent dishonesty.

83. In balancing the aggravating and mitigating factors in this case, the Tribunal concluded that Dr Chiam’s dishonesty was serious and was at the higher end of the scale of seriousness given the powerful aggravating factors identified.

The Tribunal’s Decision

No action

84. The Tribunal first considered whether to conclude Dr Chiam’s case by taking no action. The Tribunal noted that following a finding of impairment, taking no action is only considered appropriate where there are exceptional reasons for doing so. Noting the serious nature of Dr Chiam’s behaviour, the Tribunal determined that there were no exceptional circumstances which would justify a decision to take no action. It therefore determined that taking no action would not be appropriate, proportionate or in the public interest.

Conditions

85. The Tribunal next considered whether imposing conditions on Mr Chiam’s registration would be sufficient. It took account of paragraph 85 of the SG which states:

85 Conditions should be appropriate, proportionate, workable and measurable.

86. The Tribunal took account of paragraph 82 of the SG which states:

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.

87. Given the nature of Dr Chiam’s misconduct, which involves dishonesty, the Tribunal could not formulate appropriate conditions which would be workable. In addition, the Tribunal considered that conditions would not be workable given Dr Chiam’s lack of insight, the risk of him repeating his dishonest behaviour and that his attempts at remediation, both prior to the 2010 Tribunal and in 2018, had not been successful.

88. Further, given the serious nature of Dr Chiam’s misconduct, the Tribunal did not consider that conditions would be sufficient to mark the gravity of the misconduct, to uphold public confidence in the medical profession or to maintain proper professional standards and conduct for the members of the profession.

Suspension

89. The Tribunal then went on to consider whether a period of suspension would be an appropriate and proportionate sanction to impose on Dr Chiam’s registration.

90. The Tribunal took into account the following paragraphs of SG that relate to suspension:

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 (see paragraphs 24–49).

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.

91. The Tribunal noted that suspension has a deterrent effect and can be used as a signal to the doctor, the profession and the public about what is regarded as behaviour unbecoming of a registered doctor. It also acknowledged that suspension is an appropriate response to misconduct which is sufficiently serious that action is required in order to protect members of the public or maintain public confidence in the profession.

92. The Tribunal took into account that Dr Chiam was dishonest on more than one occasion, such that his misconduct could not be described as isolated. The Tribunal also took into account that Dr Chiam's dishonesty occurred over a sustained period of a number of months, that there was an element of financial gain and that his actions on 30 May 2018 had compromised patient safety. In addition, Dr Chiam had sought to cover up his dishonesty. The Tribunal reminded itself of the significant departures from GMP that it had identified in its impairment determination.

93. The Tribunal also took into account its earlier findings that Dr Chiam's insight into his dishonest conduct was lacking, that his conduct had not been fully remediated and that there was a significant risk of repetition.

94. The Tribunal further considered that, while a period of suspension is intended to have a deterrent effect, this was the sanction applied by the 2010 Tribunal after a finding of dishonesty. However, Dr Chiam committed further acts of dishonest conduct notwithstanding that sanction, which have led to this hearing.

95. The Tribunal took into account those paragraphs of the SG that refer specifically to dishonesty, in particular:

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

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

96. In light of these factors, the Tribunal determined that a period of suspension would be insufficient to mark the seriousness of Mr Chiam's misconduct. The Tribunal concluded that suspension would be insufficient 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.

Erasure

97. The Tribunal acknowledged that in cases involving findings of dishonesty, erasure is not always inevitable and that there may be occasions where the absence of aggravating factors, the presence of significant mitigation and/or substantial insight/remediation may result in a lesser sanction being imposed

98. The Tribunal went on to consider whether the sanction of erasure was appropriate and proportionate in this case. The Tribunal reminded itself of the aggravating factors it had identified and noted the following paragraphs of the SG were relevant to its deliberations:

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’).

...

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

i Putting their own interests before those of their patients

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

99. The Tribunal also had regard to paragraph 17 of SG:

‘17 Patients must be able to trust doctors with their lives and health, so doctors must make sure that their conduct justifies their patients’ trust in them and the public’s trust in the profession. Although the tribunal should make sure the sanction it imposes is appropriate and proportionate, the reputation of the profession as a whole is more important than the interests of any individual doctor.’

100. The Tribunal considered that Dr Chiam’s conduct had involved a serious and deliberate disregard for the principles set out in GMP. In this regard the Tribunal noted that Dr Chiam had referred to GMP in his submissions to the 2010 Tribunal. In addition, he told this Tribunal that he had re-read GMP in November 2018. Notwithstanding Dr Chiam’s familiarity with GMP he went on to breach it. For the reasons set out earlier in this determination the Tribunal considered that Dr Chiam’s dishonesty had been persistent and, on occasion, covered up. It also found in its determination on impairment that Dr Chiam had put his own interests, which included financial ones, before those of his patients and colleagues. As a result, the Tribunal concluded that Dr Chiam’s misconduct was fundamentally incompatible with continued registration.

101. The Tribunal determined that it must send a message to Dr Chiam and the medical profession, namely that being dishonest undermines the public's confidence in the medical profession and is conduct unbefitting a registered medical practitioner.

102. The Tribunal was mindful of the effect of erasure on Dr Chiam's career. However, it concluded that, in respect of his dishonesty, erasure was the only sanction sufficient to protect the public, promote and maintain public confidence in the medical profession, and to uphold proper professional standards and conduct for members of the profession.

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

Determination on Immediate Order - 29/09/2022

104. Having determined that Mr Chiam's name be erased from the medical register the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Mr Chiam's registration should be subject to an immediate order.

Submissions

105. On behalf of the GMC, Mr Holland referred the Tribunal to paragraphs 174 -176 and 178 of the SG. He also referred the Tribunal to its determination on sanction in which it had determined that the dishonesty was at the more serious end of the scale. Mr Holland acknowledged that there had been no concerns of patient safety, however this is the second time Dr Chiam has been in front of a Tribunal regarding probity issues. Mr Holland submitted that the dishonesty had marked a serious departure from the principles set out in GMP and had the potential to impact on public confidence in the profession.

106. Mr Holland submitted that it would be inappropriate for Mr Chiam to continue in unrestricted practice before the substantive order took effect. An immediate order would satisfy the public interest and, therefore, was appropriate in accordance with the SG.

107. Mr Chiam submitted that this was not a case where an immediate order would be necessary, appropriate, or proportionate.

108. Mr Chiam referred the Tribunal to the testimonials and submitted there were no concerns in his clinical practice. Secondly, the serious nature of the misconduct found

proven had been sufficiently marked by a sanction of erasure. Thirdly, this was not a case where there was an ongoing risk to patient safety such that an immediate order was necessary.

The Tribunal's Determination

109. 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, is in the public interest, or is in the best interests of the practitioner.

110. The Tribunal had regard to the following paragraphs of the SG:

'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor...'

'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.'

111. The Tribunal considered that Dr Chiam has been working for four years since the index events without incident. The Tribunal also noted that there was no risk to patient safety. The Tribunal determined that the imposition of an immediate order was not necessary given that the public interest was met by the substantive order.

112. There is no interim order to revoke.

113. This concludes the case.

Schedule 1

| Date | Day | Working at | Job Plan dated | Week |
|------------|-----------|----------------------|----------------|------|
| 12/03/2018 | Monday | Barlborough Hospital | 1 March 2018 | 2 |
| 13/03/2018 | Tuesday | Barlborough Hospital | 1 March 2018 | 2 |
| 26/03/2018 | Monday | Barlborough Hospital | 1 March 2018 | 4 |
| 27/03/2018 | Tuesday | Barlborough Hospital | 1 March 2018 | 4 |
| 23/04/2018 | Monday | Barlborough Hospital | 1 March 2018 | 4 |
| 24/04/2018 | Tuesday | Barlborough Hospital | 1 March 2018 | 4 |
| 27/04/2018 | Friday | Barlborough Hospital | 1 March 2018 | 4 |
| 01/05/2018 | Tuesday | Barlborough Hospital | 1 March 2018 | 5 |
| 02/05/2018 | Wednesday | Barlborough Hospital | 1 March 2018 | 5 |
| 03/05/2018 | Thursday | Retford Hospital | 1 March 2018 | 5 |
| 08/05/2018 | Tuesday | Barlborough Hospital | 1 March 2018 | 1 |
| 15/05/2018 | Tuesday | Barlborough Hospital | 1 March 2018 | 2 |
| 18/05/2018 | Friday | Barlborough Hospital | 1 March 2018 | 2 |
| 30/05/2018 | Wednesday | Barlborough Hospital | 19 June 2018 | 4 |
| 15/06/2018 | Friday | Barlborough Hospital | 19 June 2018 | 2 |
| 05/07/2018 | Thursday | Retford Hospital | 19 June 2018 | 1 |
| 13/07/2018 | Friday | Barlborough Hospital | 19 June 2018 | 2 |
| 17/07/2018 | Tuesday | Barlborough Hospital | 19 June 2018 | 3 |
| 27/07/2018 | Friday | Barlborough Hospital | 19 June 2018 | 4 |
| 01/08/2018 | Wednesday | Barlborough Hospital | 1 August 2018 | 5 |
| 03/08/2018 | Friday | Retford Hospital | 1 August 2018 | 5 |
| 08/08/2018 | Wednesday | Barlborough Hospital | 1 August 2018 | 1 |
| 28/08/2018 | Tuesday | Barlborough Hospital | 1 August 2018 | 4 |
| 31/08/2018 | Friday | Barlborough Hospital | 1 August 2018 | 4 |
| 21/09/2018 | Friday | Barlborough Hospital | 1 August 2018 | 3 |
| 05/10/2018 | Friday | Barlborough Hospital | 1 August 2018 | 1 |
| 19/10/2018 | Friday | Barlborough Hospital | 1 August 2018 | 3 |
| 09/01/2019 | Wednesday | Barlborough Hospital | 1 August 2018 | 1 |