PUBLIC RECORD

Dates: 18/11/2024 - 27/11/2024

Medical Practitioner's name:	Dr Paul CROCKER
GMC reference number:	2477282
Primary medical qualification:	MB BS 1979 University of London

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

Summary of outcome

Suspension, 12 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr Duncan Ritchie
Medical Tribunal Member:	Dr Sarah Woodford
Medical Tribunal Member:	Dr Anup Singh

Tribunal Clerk:	Mr John Poole

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Andrew Colman, Counsel, instructed by the MDDUS
GMC Representative:	Mr Edmund Potts, 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 - 22/11/2024

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

Background

2. Dr Crocker qualified in 1979 from the University of London and went on to specialise in General Practice. At the time of the events which give rise to the Allegation, Dr Crocker was working as GP partner at the Health Centre, XXX. He resigned as a GP partner from the Health Centre in May 2023.

3. The Allegation that has led to Dr Crocker's hearing can be summarised as that on 31 August 2023, at Trowbridge Police station, he accepted a caution for the assault of an emergency worker, by beating causing injuries, on 11 May 2023 at the Health Centre.

The Outcome of Applications Made during the Facts Stage

4. The Tribunal granted the GMC's application for an order of anonymity in respect of witnesses Ms A and Ms B, pursuant to Rule 34(4) of the Rules of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules').

5. The Tribunal also granted the GMC's application for special measures in relation to Ms A's evidence. It agreed that she be treated as a vulnerable witness and that special measures be used to assist her giving her evidence, namely via Dr Crocker keeping his camera and microphone off during her evidence.

6. The Tribunal also determined that parts of the evidence be heard in private XXX. In particular, it determined to hear the evidence Ms A, Ms B and Dr Crocker, in private.

The Allegation and the Doctor's Response

7. The Allegation made against Dr Crocker is as follows:

1. On 31 August 2023 at Trowbridge Police Station, you accepted a caution for the assault of an emergency worker, Person A, by beating causing injuries, on 11 May 2023 at The Health Centre as outlined at Schedule 1, contrary to Section 1 of the Assaults on Emergency Workers (Offences) Act 2018. **Admitted and found proved**

The Admitted Facts

8. At the outset of these proceedings, through his counsel, Mr Colman, Dr Crocker admitted to paragraph 1 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 paragraph 1 of Allegation as admitted and found proved.

The Facts to be Determined

9. Whilst Dr Crocker's admitted to the fact of the police caution as outlined above, there was a substantial dispute between parties regarding the facts underlying the caution, specifically, what it was that Dr Crocker was admitting to by accepting the caution from the police. The essential factual dispute the Tribunal was tasked to resolve, was whether Dr Crocker's assault of Ms A was reckless or deliberate. It had been determined at a preliminary hearing on 5 November 2024, that evidence of fact from the witnesses should be heard at this hearing to determine the facts remaining in dispute.

10. A police conditional caution was issued for an assault relating to an incident in an examination room at the Health Centre on 11 May 2023. Dr Crocker had tried to gain entry to the examination room, but as he opened the door not appreciating that a staff member and an undressed patient were inside, the door was shut by Ms B XXX. Dr Crocker, on his own admission, reacted 'very badly' when he re-entered the room, shaking his arms in front of him, hitting Ms A on the face causing facial injuries.

11. Prior to Dr Crocker entering the room, Ms A, Emergency Nurse Practitioner, and with Ms B, Senior Practice Nurse, had been seeing a patient. They both provided accounts of the incident which varied to that given by Dr Crocker.

12. In summary, the Tribunal was asked to determine the following five areas of dispute between parties:

1) Were Ms A and Ms B correct when they stated that Dr Crocker entered the room, not saying anything initially, with his fists raised, or was he distressed but not aggressive and simply shaking his arms in sheer frustration at events?
2) Did Ms B make any comment of a belittling nature between Dr Crocker entering the room and the assault taking place?
3) Was Ms A backing away as Dr Crocker continued to approach her through the room?
4) Did Dr Crocker punch Ms A twice to the face with a hard impact? Did it happen as Dr Crocker asserted through his witness statement, that he merely laid his hands on Ms

A's cheekbones and with his hands shaking, unintentionally struck her twice on the face with the back of both hands?

5) Did Ms B have to physically restrain Dr Crocker, pulling him back by his shoulders? Or did he immediately recognise his mistake, apologise and then leave directly.

In summary, the GMC alleged that the assault was committed deliberately, whereas Dr Crocker's case was that it was committed recklessly.

Witness Evidence

13. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Ms A
- Ms B
- Ms C, Business and Strategy Manager at the Health Centre
- Ms D, Programme Manager for the Professional Standards Team at NHS England, South West

14. Dr Crocker provided his own witness statement dated 24 August 2024 and gave oral evidence at the hearing.

Documentary Evidence

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

- Ms A's statement to the police, 17 May 2023
- Various photographs of the injury to Ms A's lip
- Ms B's statement to the police, 18 May 2023
- Ms B's statement to Ms C, 11 May 2023
- Ms C's police statement, 18 May 2023
- Serious Incident Report completed by Ms C, 11 May 2023
- Various internal email chains regarding the incident
- Dr Crocker's written account of events, 11 May 2023
- Copy of Dr Crocker's conditional caution, 31 August 2023

The Tribunal's Approach

16. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Crocker does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e., whether it is more likely than not that the events occurred.

17. The Tribunal bore in mind that Dr Crocker has admitted the allegation made against him by the GMC – namely that he accepted a conditional caution for an offence of assaulting an emergency worker. However, there remains a dispute as to the facts which lay behind the conditional caution, in other words, there is a dispute about the nature and seriousness of the assault.

18. The Tribunal bore in mind that the GMC alleges that Dr Crocker deliberately punched Ms A twice in the face, resulting in her receiving facial injuries. Dr Crocker denies deliberately punching Ms A and states that she came by her injuries when he placed his hands to her face. Although this disputed matter was not set out in the Allegation, the Tribunal determined that it should make findings of fact about the nature and seriousness of the assault, based on the evidence placed before it during this hearing.

19. The Legally Qualified Chair advised the Tribunal in the following terms:

a. If, having heard the evidence, the Tribunal is satisfied on the balance of probabilities that Dr Crocker did deliberately punch Ms A twice, then it should make a finding of fact to that effect. If, on the other hand, the Tribunal is not satisfied on the balance of probabilities that Dr Crocker behaved in the manner alleged by the GMC, the Tribunal should make a finding of fact to that effect.

b. In regard to the assessing the credibility of the witnesses the Tribunal should avoid the fallacy of the confident witness – a confident witness may still be mistaken or misremember important details. An honest but mistaken witness can construct an entirely false memory. The Tribunal was also reminded that demeanour is not a reliable pointer to the honesty of a witness' account and it should not rely exclusively on a witness's demeanour when giving evidence.

c. The Tribunal must consider all of the evidence before it before making findings as to the credibility of any witness. Any assessment of credibility must be based on inferences drawn from the documentary evidence and any known or probable facts.

d. The Tribunal can take into account the inherent probability or improbability of an event when deciding whether that event occurred. Where an event is inherently improbable, it may take better evidence to persuade the Tribunal that it has happened.

e. The Tribunal may draw reasonable inferences from the facts, using common sense and from experience. The Tribunal may also attach what weight it considers appropriate to the evidence it has received. However, it would be wrong for the Tribunal to enter into speculation about matters or for example to consider what evidence might or might not have been available in the case. The Tribunal must decide the case purely on the evidence that has been put before it and must not speculate about what other evidence there may have been.

f. The Tribunal has heard that Dr Crocker is of good character. His good character must be taken into account by the Tribunal when assessing his credibility and the likelihood of his having done what has been alleged. His good character is not a defence to the allegations, however: it is simply one factor to take into account when considering all of the evidence in the round. The weight to assign his good character is a matter for the Tribunal to determine.

20. The Tribunal took account of the submission made by parties. It was reminded that submissions are not evidence and can be accepted or rejected as it sees fit.

21. Whilst in camera deliberating the facts, the LQC also advised the Tribunal of the definition of recklessness. He referred to the judgement of Lord Bingham in *R v G [2004] 1 AC 1034:* a person acts recklessly with respect to:

i) A circumstance when he is aware of a risk that it exists or will exist;
ii) A result when he is aware of a risk that it will occur; and it is, in the circumstances known to him, unreasonable to take that risk.

22. The LQC advised that in the current case Dr Crocker may have assaulted Ms A recklessly if he was aware that there was a risk that his hand would strike her face when he placed his hands near to or on her face and, in the circumstances known to him, it was unreasonable for him to take that risk.

23. The LQC further advised that an assault could be committed "deliberately", (in the sense of the doctor intending that his fists strike Ms A) without such an assault being premeditated or any injury being intended.

The Tribunal's Analysis of the Evidence and Findings

24. The Tribunal considered the evidence of the witnesses.

25. In Ms A's witness statement to the GMC, dated 13 June 2024, she essentially confirmed the content of her police statement, dated 17 May 2023, to be accurate and correct. In her police statement, she stated:

> *'…On Thursday 11th May at about 2:30 in the afternoon, I was in Room 1 of the doctor's surgery with my colleague Ms B who is another nurse at the practice and a patient and her husband... The patient was unsuitably dressed so we had the door locked to respect her privacy. We heard the numbers on the keypad on the door being entered as if someone was trying to come in. Ms B and I both said, ''DON'T COME IN'' and ''NOT NOW'' at the same time as we did not know if the person trying to get in knew we were in there. Despite us saying this, the door opened slightly, no more than 10cms. Ms B leant back on the chair and used one hand to close the door to prevent anyone coming in when we had a patient. She did not slam the door, she closed it with one hand. Luckily Ms B did this as the patients husband was stood right by the door*

and the door would have hit him if it had been opened. I did not hear anyone say anything after we had said this. We continued with out patient for about 5-10 minutes and when we had finished, I opened the inward opening door to see the patient out. The patient and her husband walked out.

As soon as they had left, I saw Dr Paul CROCKER stood there near the doorway. I said ''HI PAUL ARE YOU OKAY''. He did not say anything to me, but he raised both of his fists at me and started walking towards me. I naturally started walking backwards as he followed me back into room 1. He punched me to the face with both of his fists twice, hitting me in the nose and mouth. As he was punching me, he said ''THIS IS WHAT IT FEELS LIKE WHEN SOMEBODY SHUTS A DOOR IN YOUR FACE''. He was clearly angry when he said this, he was very abrupt, loud and aggressive when he said this. I didn't see this coming at all.

I continued to walk backwards into the room to get away from him, until I was right at the back and could not walk back any further. Dr CROCKER continued to walk towards me, and my colleague Ms B who was sat as the desk got up and tried to pull him back by his shoulders. Ms B said, ''WHAT ARE YOU DOING, WHAT ARE YOU DOING DR CROCKER''. Whilst he was doing this, Dr CROCKER was ranting about something and kept saying something about [XXX] although I do not remember exactly what he was saying.

I was wearing a medical mask from the appointment, and I felt it getting wet. I thought my nose may have been running so I pulled my mask off. It was when I did this, I realised my nose was bleeding as a result of him hitting me. I was stood in the corner of the room, and he stood directly in front of me. I couldn't move any further back, but he was still shouting in my face. I placed my left forearm against his chest/shoulder area and gently pushed him away from me. He didn't fight against me, but he was still shouting at me, I said, ''GET OFF ME, LEAVE ME ALONE''. I got some tissue to help stop the bleeding and held it to my nose…'

26. In Ms B's statement to the police, dated 18 May 2023, she stated that:

'…Ms A asked me to assist her with one of her consultations with a patient she had coming in for an appointment. The patient came into her appointment, Ms A and I were dealing with her in room 1…

I heard the keypad on the door being used to open the door. After approximately 2 of the numbers had been entered Ms A and I said "NO". The noise of the keypad being used continued, so we both shouted "NO" again. The digits continued to be entered and the door opened not even past the door frame before I gently closed it to prevent anyone coming in, and to protect the patient's privacy. It is common practice in the Surgery to knock before entering which is why it shocked us so much that someone walked in when we had a patient in the room and had said "NO" to them coming in.

After about 5-10 minutes, we finished with our patient and let her and her husband out of the consultation room. I immediately noticed Dr Paul CROCKER, he barged into the room and had both of his fists raised and clenched. It was as if he had been waiting outside of the room for us to finish with the patient. He had time to calm down, but he actually seemed more revved up.

He aggressively walked towards Ms A with his fists raised. He shouted, "DO YOU KNOW WHAT ITS LIKE [XXX]?". As he was doing this, he hit Ms A in the face with his fists two times. He hit her in the nose, and it immediately started bleeding. The blood from Ms A's nose was visible on her medical mask that she had been wearing throughout the appointment straight away.

I got out of my chair and shouted, "DOCTOR CROCKER, DOCTOR CROCKER WHAT ARE YOU DOING", as he was still walking towards Ms A who was backed into the corner of the room. Ms A said, "GET OFF ME" and I pulled Dr CROCKER back by his shoulders to prevent him from hurting Ms A anymore. Dr CROCKER said "SORRY" and ran off out of the room…''

27. The Tribunal noted that Dr Crocker first reported the incident to Ms C shortly after it happened. Ms C completed a serious incident report on 11 May 2023 after discussing the incident with Ms A and Ms B at approximately 4:30pm. In this she recorded that:

'…At approx. 1500 hours Dr Paul Crocker came into my office to advise he had to leave immediately due to a serious incident. I asked Dr Crocker what he meant and if he was ok. He explained he had an issue with someone shutting a door on him, slamming it on him. He explained that [XXX]. I asked him if he wanted to sit down for a few minutes and he advised no he had to leave. He then advised he had assaulted someone. He advised he had punched Ms A on the nose.'

28. Ms C provided a statement to the police on 18 May 2023. In this she stated that:

'At approximately 2:45-3pm on Thursday 11th May 2023, I was in my office… Dr Paul CROCKER… has come into my office. He stated to me, '' I HAVE TO LEAVE DUE TO A SERIOUS INCIDENT''. I asked him what he meant, and he said, ''THERES BEEN AN INCIDENT AND I HAVE TO LEAVE THE PRACTICE NOW''. I asked him if he was okay and asked if he wanted to sit down. He stated, ''No''. He said something along the lines of a door shutting and said, ''ITS NOT VERY NICE [XXX] HAVING A DOOR SHUT IN YOUR FACE''. I asked if he was okay, he said, ''NO I'VE ASSAULTED SOMEONE''. I asked who, he said ''I HAVE JUST PUNCHED MS A.''

29. The Tribunal noted Dr Crocker's typewritten account of events on 11 May 2023, which he emailed to Ms D on 23 May 2023. He stated:

'I knocked on the door to enquire about the room - a voice responded but I did not hear clearly what was said - I thus opened the door ajar using the door lock code to put my head round the door and enquire further.

Each room has such a door lock which sits proud of the side of the door. I was bending forward with the side of my head near the door lock but as I opened the door the door was pushed back twice in quick succession to close it. This just missed the side of my face [XXX]. I stepped away from the door and two older patients left shortly afterwards.

I then enquired of four colleagues who was using room AZ1 at that time - speaking to a paramedic; receptionist; patient liaison officer and another back office colleague in quick succession. All said that they thought Ms A was using the room.

I was very upset at the 'near miss' to XXX my face[XXX] and wanted to discuss this further with whoever had been using the room to advise them of this [XXX].

Unfortunately I reacted very badly when I went into the room initially shaking my fists in front of me to emphasize the point and then as I got nearer I accidentally struck Ms A on the lower face and caused a nose bleed. I immediately realised that I done badly wrong and apologised – Ms A asked me to step away; another nurse colleague was in the room said that Ms A's nose was bleeding and took her away…'

30. In Dr Crocker's GMC witness statement, dated 24 August 2024, he provided details of XXX:

'XXX'

31. In regard to the incident on 11 May 2023, he stated that he had knocked on the door of the room but that it was not always possible to be heard or hear the response from within until the door was ajar. He stated the opening the door to check who was there whilst calling out was commonplace particularly in the clinical rooms that had fire door. He stated that:

'Upon opening the door, the door was pushed back against me sharply twice in quick succession, and narrowly missed hitting [XXX] on the right side of my face and head which were against the door as I operated the door lock mechanism and began to open the door to check the room...

After the door had been pushed shut, I initially stepped away and as far as I remember I went back to my own room. Shortly afterwards, because of the impact of the near miss injury to my face, I decided to return to the room to explain my concerns to my nursing colleague. [XXX].

After returning to the waiting area and before re-entering the allocated room I asked four people who was in that room... All four said that it was Ms A, a nurse, that was in the room.

Once the two patients had exited the allocated room, I entered the room to try and explain the context of that near miss event to my colleagues in the room. I was extremely upset at the incident. On entering, one of the nurses, Ms B, who was in the room said words to the effect of 'well it didn't actually hit you.' This felt belittling especially in regard to this issue of significant personal concern to me [XXX].

Once in the room, I was shaking my forearms in sheer frustration at events and initially hit the edge of the sink in distress after Ms B's comment – she was inside the door. Ms A was standing further back in the room by the sink, and I walked towards her as I had been told she was the nurse in the room, and it was her that I wished to speak to. Having walked up to Ms A I laid the back of both my hands on her cheekbone areas and said to her words to the effect of 'this is what it feels like [XXX].' In hindsight it was completely inappropriate to have done this, but I had wanted to emphasise my concerns following the near miss impact from the door. With my hands laid on the back of Ms A's cheekbones and with my hands shaking I unintentionally struck her twice on the face with the back of both hands causing her nose to bleed. This was revealed when she took off her face mask. I immediately apologised to Ms A for striking her and approached her to try to comfort her and offer a tissue to wipe the blood from her nose. As I approached Ms A she asked me to step away and Ms B suggested that they go elsewhere, and she escorted out of the room that we were all in.

I then left the room last and went straight to my practice manager, Ms C and began to describe the incident to her. Whilst I do not recall the exact words I used; I do remember having to repeat myself several times, I remember saying that that I had effectively, although unintentionally, assaulted a nursing colleague and that I should leave the Practice whilst the matter was addressed - I may have used the word 'punch' to convey the gravity of what had happened…'

32. In his oral evidence to the Tribunal Dr Crocker gave an account which was broadly similar to that contained in his witness statement dated 29 August 2024. He told the Tribunal that during a meeting with Dr E for the purpose of the Performers List Decision Panel Dr E asked him to break the incident down in detail and that in the process of this he recalled that Ms B had made a remark about the door not actually striking him. He said that this remark had a "profound" effect upon him because he felt the comment was dismissive of the potential impact of him being struck XXX. He said that he had not mentioned Ms B's comment in his earlier accounts because he had been in shock after the incident.

33. Dr Crocker also described that he XXX – causing him to be tired and more short-tempered than normal. He said that he was much more stressed than he recognised and that "it drained my resources".

34. The Tribunal asked Dr Crocker about the evidence of Ms A and Ms B that he had previously shouted at colleagues and being short tempered in the run up to the incident. Dr Crocker said that he felt short tempered when XXX and he remembered an incident a month or two beforehand when he shouted at a colleague. He stated that he felt stressed at the time because of a significant increase in workload demand. He did not recognise the description of himself as having a short fuse and being short tempered and nobody had spoken to him about this.

35. When asked about the shaking of his arms, Dr Crocker told the Tribunal that this was more serious than a slight tremor – that his forearms were moving backwards and forwards to a degree measurable in inches. He said that this had happened because of the emotion of the situation and his frustration XXX. He said that he was upset and that the movements of his arms were partly voluntary and partly involuntary.

36. When asked about the words he used to Ms C after the incident, Dr Crocker stated that he recalled that he had used words to the effect that he had "effectively" assaulted someone.

37. Dr Crocker stated that he had been in shock in the immediate aftermath of the incident and that this may explain why his initial accounts did not include the detail of his laying the backs of his hands on Ms A's cheeks.

38. The Tribunal considered the accounts of Ms A and Ms B to be broadly consistent with each other in terms of the description of the incident on 11 May 2023. The Tribunal further considered that Ms A & Ms B's evidence to the Tribunal was broadly consistent with their written evidence and both maintained their accounts when cross examined by Mr Colman.

39. The Tribunal noted that Mr Colman, in his submissions to the Tribunal, identified three discrepancies in the accounts provided by Ms A and Ms B. These were, 1) the position of Dr Crocker's hands (whether the backs of his hands were facing outwards or upwards when he struck Ms A), 2) Ms A's position in the room at the moment of the assault, and 3) whether Dr Crocker apologised afterwards. The Tribunal considered that these discrepancies were minor in nature and did not go to the heart of the allegation. Moreover, it considered that such discrepancies could be expected given the passage of time since the incident and given the brief and perhaps shocking nature of the incident. As such, the Tribunal considered that the discrepancies did not undermine the credibility of the evidence of Ms A or Ms B.

40. The Tribunal considered that neither Ms A nor Ms B had any discernible reason to lie about what happened. There was no evidence of any previous animosity between them and Dr Crocker, and it was agreed that they had had previously good working relationships with him over a number of years.

41. The Tribunal also considered that the accounts of Ms A and Ms B were supported by two important features of the evidence. Firstly, the fact of Ms A's injuries as observed by

witnesses and evidenced in the contemporaneous photographs, and secondly, the fact that Dr Crocker told Ms C shortly after the incident that he had just assaulted someone and that *'I have just punched Ms A'.*

42. The Tribunal further considered that Ms A & Ms B's evidence that two blows were struck simultaneously with both fists supported the GMC's case that the assault was committed deliberately.

43. The Tribunal considered Dr Crocker's evidence and determined that there were significant inconsistencies in the accounts he has provided. It determined that whilst the inconsistencies identified in the evidence of Ms A and Ms B did not go to the heart of the allegation, those of Dr Crocker did.

44. The Tribunal noted that Dr Crocker's first account via the comments made to Ms C soon after the incident, was that he had "assaulted" and "punched" Ms A. This later developed into him saying in his written accounts and his prepared statement for the police interview that he had gesticulated towards Ms A and, in doing so, had accidentally struck her face, causing her injury. Later, his account to the Tribunal hearing was that he deliberately laid his hands on Ms A's cheeks XXX and that his hands had involuntarily moved backwards and forwards, striking Ms A and causing the injuries to her mouth and nose.

45. There was also some inconsistency in whether Dr Crocker clenched his fists at any stage whilst he was in the room. In his evidence to the Tribunal, he said that he could not recall if he had clenched his fists at any time, however, he had earlier accepted banging his fists on a sink to demonstrate his anger.

46. A further inconsistency was that he had had accepted a conditional caution for the offence of an *'assault… by beating causing injuries'* and subsequently, in effect, claimed that it was an accident. The Tribunal did not accept his evidence that he merely agreed to take the conditional caution on the advice of his solicitor because Dr Crocker signed the declaration to admit the offence and further, that he 'should not admit the offence solely in order to receive a conditional caution'.

47. A further inconsistency of Dr Crocker's evidence was identified regarding whether Ms B made a remark whilst in the room.

48. In Dr Crocker's witness statement, he stated that on entering the room, Ms B said in reference to the door, words to the effect of *'well it didn't actually hit you.'* Dr Crocker stated that: *'This felt belittling especially in regard to this issue of significant personal concern to me [XXX]…'*

49. The Tribunal noted that in his oral evidence, when asked if the desultory remark had a profound effect on him, Dr Crocker stated *'yes'*, explaining that *'it was so dismissive of the potential impact of the near miss from the door, XXX…'.* However, the Tribunal considered that if a comment was made which had such a profound effect, this would likely have been

reflected in comments to Ms C or in his initial written account of the incident. Furthermore, the Tribunal noted that this development of his account arose later and was not something that Dr Crocker spontaneously recollected but was seemingly prompted by questions by a doctor during the PLDP proceedings, when exploring Dr Crocker's thoughts on the incident.

50. Moreover, the Tribunal considered it difficult to understand how such comments, purportedly made by Ms B, would have caused Dr Crocker to react in the way he did towards Ms A rather than Ms B.

51. The Tribunal was also not clear why Dr Crocker would use the backs of his hands on the cheeks of Ms A to demonstrate XXX. Even if he were to use his hands to demonstrate the area on Ms A's face, it would have been more logical to use his fingertips rather than the backs of his hands.

52. The Tribunal also considered it difficult to understand how any involuntary tremors as described by Dr Crocker, would have been so forceful so as cause him to strike Ms A twice, and with sufficient force to cause injuries to her nose and mouth.

53. The Tribunal recognised Dr Crocker's good character and the inherent improbability of him behaving in the serious manner alleged by the GMC. It was difficult to understand why an experienced doctor who had spent his life caring for patients would assault a colleague. However, the Tribunal considered that Dr Crocker's account was inconsistent, improbable and lacked credibility. Conversely, the accounts of Ms A and Ms B were consistent and supported by the surrounding evidence. In conclusion, the Tribunal preferred the evidence of Ms A and Ms B to that provided by Dr Crocker.

54. Having considered the evidence and the credibility of the witnesses, the Tribunal went on to consider the five questions posed by the GMC.

1- *Were Ms A and Ms B correct when they stated that Dr Crocker enter the room with his fists raised? Or was he simply shaking his hands in frustration?*

55. The Tribunal was satisfied that Dr Crocker entered the room with his fists raised because both Ms A and Ms B said that he did and the Tribunal had no reason not to accept their account. Moreover, Dr Crocker, at certain points in the evidence, accepted that he had clenched his fists and that he had banged the sink with his fists when he entered. Accordingly, the Tribunal found proved that Dr Crocker entered the room with his fists raised.

2- *Did Ms B make a comment of a belittling nature?*

56. The Tribunal considered that the evidence does not support that Ms B made such a comment. Neither Ms A nor Ms B recalled it, and Dr Crocker did not first mention it until significantly later and at the prompting of questions from Dr E. Moreover, if Ms B had made the offensive remark, it was not clear why Dr Crocker's anger would have been directed at

Ms A rather than Ms B. Accordingly, the Tribunal concluded that Ms B did not make a comment of a belittling nature, it therefore found this not proved.

3- Was Ms A backing away as Dr Crocker approached her through the room?

57. The Tribunal did not find this allegation was proved. It considered that the evidence was unclear as to precisely where Ms A was when Dr Crocker assaulted her. The Tribunal was therefore not satisfied on the balance of probabilities that Ms A was backing away as Dr Crocker approached her through the room. It therefore found this not proved. However, the Tribunal considered that this was not an important feature of the alleged assault.

4- Did Dr Crocker punch Ms A twice with a hard impact?

58. Given that the Tribunal preferred the evidence of Ms A and Ms B and that their evidence was supported by the contemporaneous evidence (the evidence of the injury and Dr Crocker's comments to Ms C), the Tribunal determined that Dr Crocker did punch Ms A twice with a hard impact. It therefore found this proved.

5- Did Dr Crocker require physical restraining? And did he apologise?

59. Given that the Tribunal preferred the evidence of Ms A and Ms B to that of Dr Crocker, the Tribunal found proved that Ms B had restrained Dr Crocker. Considering the evidence of Ms B and of Dr Crocker to the effect that Dr Crocker had said sorry immediately after assaulting Ms A, the Tribunal found that Dr Crocker had immediately apologised for his behaviour.

60. In summary, the Tribunal determined that the assault was deliberate rather than reckless. The Tribunal determined that Dr Crocker entered the examination room in a state of anger, having lost his temper as a result of having a door closed in his face. He then punched Ms A twice in the face with both fists simultaneously, thereby causing injuries to Ms A's nose and mouth. The Tribunal did not consider that the assault was premeditated or that Dr Crocker gave any thought at the time to what harm may be caused by his actions. The Tribunal considered that the issues which Dr Crocker had been suffering XXX at the time of the assault had caused him distress and that this contributed to him losing his temper. Further, this occurred on a background of increasing work-related stress. Dr Crocker appeared to immediately recognise the seriousness of his actions and to regret them.

Determination on Impairment - 25/11/2024

61. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Crocker's fitness to practise is impaired by reason of a conditional caution for a criminal offence.

The Evidence

62. The Tribunal took into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further documentation at this stage in support of Dr Crocker. This included evidence of Continuing Professional Development (CPD) completed, Dr Crocker's reflections following various courses undertaken, testimonials provided in his support, XXX, an unredacted letter of apology to Ms A from Dr Crocker, and a Colleague feedback report from November 2022.

Submissions

GMC submissions

63. On behalf of the GMC, Mr Potts submitted that Dr Crocker's fitness to practise is currently impaired by reason of his caution.

64. Mr Potts made four principal submissions. First, he submitted that there was at least a potential risk of harm to patients which would justify a finding of impairment. Secondly, he submitted that Dr Crocker's actions have brought the medical profession into disrepute. Thirdly, that Dr Crocker has through his actions, breached fundamental tenets of the medical profession. And fourth, that with Dr Crocker's current level of insight, he may also be liable in the future to repeat the behaviour which gave rise to these proceedings.

65. Mr Potts reminded the Tribunal of the relevant principles to follow as set out in *Council for Healthcare Regulatory Excellence v NMC, Grant [*2011] EWHC 927 (Admin). He summarised that the Tribunal must determine whether Dr Crocker's fitness to practise is impaired as of today's date.

66. Mr Potts reminded the Tribunal of the test set out by Dame Janet Smith in the Fifth Shipman Report.

67. Mr Potts submitted that whilst this was not a case where any patient has been put at unwarranted risk of harm, it should be of concern that the assault took place in the workplace during work hours, with patients in the general vicinity albeit not in the same room. Mr Potts submitted, therefore, that there is an appreciable risk of harm to patients posed by this type of behaviour, not only if violence were directed at patients themselves, but also in the event that a patient waiting nearby were to intervene to assist the victim.

68. Mr Potts submitted in assaulting Ms A and being cautioned by the police for the same, Dr Crocker has self-evidently brought the medical profession into disrepute.

69. Mr Potts further submitted that Dr Crocker has breached fundamental tenets of the medical profession. He invited the Tribunal to have particular regard to the following paragraphs of *Good Medical Practice* (2013 version) (GMP):

> *1. Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*
>
> *36. You must treat colleagues fairly and with respect.*
>
> *65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*

70. Mr Potts submitted that it was also noted by Mrs Justice Cox in the case of *Grant* that the Tribunal should generally consider whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment is not made.

71. Mr Potts submitted that limbs two and three of the overarching objective are engaged in this case. He submitted that public confidence in the profession would be undermined if a finding of impairment were not made, and that a finding of impairment is necessary to promote and maintain proper professional standards and conduct for members of the profession.

72. Mr Potts reiterated the Tribunal's findings at the facts state that there were significant inconsistencies in Dr Crocker's evidence, going to the heart of the allegation, and that his account was inconsistent, improbable and lacked credibility. Further, that the assault was deliberate rather than reckless; that Dr Crocker had entered the room in a state of anger and punched Ms A twice in the face.

73. Mr Potts noted the documentation provided on behalf of Dr Crocker at this stage of the hearing. He submitted that it was clear that Dr Crocker has spent a not insignificant amount of time undertaking CPD and other reflective work. He submitted that Dr Crocker has considered the impact of the assault on Ms A; the impact on his other colleagues; and the effect on public confidence in the profession.

74. However, in regard to the risk of repetition, Mr Potts highlighted the following two excerpts from Dr Crocker's reflections:

> *"**Striking Ms A was completely unintended** but resulted in physical injury, and psychological consequences for her, and significant workplace distress for her and Ms B in the room as well as significant unforeseen distress and concern for the whole nursing team; staff; partners and managerial colleagues of the practice."*
>
> *"**My attempt to discuss and clarify** a very private matter with Ms A – a well-known, liked and trusted nurse – had thus resulted in a disastrous outcome for her".*

75. Mr Potts submitted that whilst a considerable amount of remedial work has been done, this work and the resulting reflections by Dr Crocker do not exceed that which might

be expected of him following a reckless assault, rather than an intentional one which has now been found proven.

76. Mr Potts reminded the Tribunal that the relevant legal authorities are clear that 'It would be wrong to equate maintenance of innocence with a lack of insight', but also that "A want of candour and continued dishonesty may be taken into account by the Tribunal in reaching its conclusions on impairment". He submitted that a want of candour is particularly important in this case as the remedial work appropriate to a registrant who has behaved recklessly while angry may be different to that appropriate for one who has behaved in a deliberately violent manner.

77. Mr Potts submitted that with Dr Crocker's current level of insight which reflects a lack of total candour, he may still be liable in the future to repeat the behaviour giving rise to these proceedings.

Submissions on behalf of Dr Crocker

78. On behalf of Dr Crocker, Mr Colman submitted that Dr Crocker agrees that his acceptance of a caution encompassing the admission of the serious offence of assaulting an emergency worker deliberately, requires a finding of impaired fitness to practise in the public interest. Mr Colman submitted that a finding of impairment was neither necessary nor appropriate on the grounds of public protection.

79. Mr Colman submitted that the events of 11 May 2023 occurred in the exceptional context of weeks of XXX and work-related stress, which contributed to his loss of temper. He submitted that those problems have been resolved and will not recur. He told the Tribunal that Dr Crocker is now retired from active practice but remains registered with the GMC with a licence to practise and remains on the GP Performers Register. He submitted that Dr Crocker has engaged in extensive and specifically targeted remedial education and reflection. He further submitted that this was an isolated aberration in a long and worthy career and wholly out of character.

80. Mr Colman submitted that Dr Crocker will doubtless go on to reflect further on the Tribunal's determination. He also highlighted the following comments made by from Ms F XXX, in her testimonial provided in support of Dr Crocker:

> *'Dr Crocker demonstrated insight into the events on the day of the incident, along with a generally high level of self-reflection. On several occasions Dr Crocker described situations which would lead me to believe that he is an extremely conscientious person in both his professional and personal life.'*

81. Mr Colman submitted that there was no realistic possibility of any repetition of this extraordinary and uncharacteristic conduct and no clinical setting in which it could occur.

The Relevant Legal Principles

82. Throughout its consideration of impairment, the Tribunal had regard to the statutory overarching objective of protecting the public, which involves the pursuits of the following objectives:

i) To protect, promote and maintain the health, safety and wellbeing of the public;
ii) To promote and maintain public confidence in the medical profession, and;
iii) To promote and maintain proper professional standards and conduct for members of that profession.

83. The LQC reminded the Tribunal that it should consider all three limbs of the overarching objective and not give excessive weight to any one in particular.

84. 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.

85. The Tribunal had regard to the test for impairment as established by Dame Janet Smith in the 5th Shipman report:

> *"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."*

86. The Tribunal must determine whether Dr Crocker's fitness to practise is impaired today, taking into account his conduct at the time of the events, whether the matters are remediable, whether they have been remedied and the likelihood of repetition.

87. The Tribunal must determine whether Dr Crocker has demonstrated insight and if so, to what extent. The Tribunal was reminded that it should not equate maintenance of innocence with a lack of insight, as a doctor who maintains his innocence may nevertheless show that he fully appreciates the gravity of the offence alleged.

88. The Tribunal must consider whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.

The Tribunal's Determination on Impairment

89. The Tribunal considered whether Dr Crocker's fitness to practise is impaired by reason of a conditional caution.

90. It was admitted and found proved that Dr Crocker accepted a conditional caution for the assault of an emergency worker, Ms A, by beating causing injuries, on 11 May 2023. The Tribunal found that the assault was deliberate rather than reckless.

91. The Tribunal considered the test for impairment as set out by Dame Janet Smith in the fifth Shipman report and determined that limbs (b) and (c) were engaged in this case. It determined that Dr Crocker's conditional caution has brought the medical profession into disrepute and that he breached fundamental tenets of the medical profession. The Tribunal considered that Dr Crocker's actions breached paragraphs 1, 36 and 65 of GMP as referred to above. In addition, the Tribunal considered that paragraph 37 of GMP had been breached in this case:

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

The Tribunal considered that each of these paragraphs set out fundamental tenets of the medical profession and that Dr Crocker's conduct breached such tenets.

92. The Tribunal did not accept the GMC's submission that Dr Crocker's conditional caution raised appreciable concern about the safety of patients (Limb (a) of the test for impairment set out in the fifth Shipman report). In reaching this decision the Tribunal considered that Dr Crocker's assault of Ms A was a single isolated incident and that it needed to be considered alongside his long career during which no other similar incidents had occurred. Further, the Tribunal bore in mind the extensive testimonials submitted on Dr Crocker's behalf and the positive terms in which those former colleagues and friends speak of him. The Tribunal also considered that Dr Crocker was under considerable stress XXX at the time of the incident. Given Dr Crocker's demonstrated insight into the effect this stress had on him at the time of the incident, the Tribunal considered that it was unlikely that he would behave in a similar way to a colleague in the future. The Tribunal also considered that it was unlikely that a patient might intervene in a future incident involving Dr Crocker and thereby come to harm, as the GMC had suggested.

93. For the reasons set out in the preceding paragraph, the Tribunal considered that the likelihood of Dr Crocker repeating the kind of conduct which led to his conditional caution was low.

94. The Tribunal considered whether Dr Crocker's conduct was remediable and has been remedied.

95. The Tribunal considered that the criminal offence which Dr Crocker committed was serious and it was likely to have a significant adverse effect on public confidence in the medical profession. It considered that it was difficult to remediate the serious impact on public confidence in the profession in circumstances where a doctor deliberately assaulted a colleague.

96. The Tribunal bore in mind that in order to remediate a doctor must have insight into the concerns raised by their conduct.

97. The Tribunal recognised that Dr Crocker had, from the first moment, realised that he had done something seriously wrong. The Tribunal also recognised that Dr Crocker had sought to apologise to Ms A. The Tribunal had regard to the targeted remediation training undertaken by Dr Crocker and his reflections. The Tribunal noted that he had attended several training courses and that his reflective notes demonstrated that he had engaged with the issues raised by these courses. The Tribunal considered that in his various comments about the incident Dr Crocker had demonstrated good insight into the harm caused to public confidence in the medical profession. These factors led the Tribunal to consider that Dr Crocker had demonstrated a degree of insight into his behaviour.

98. The Tribunal further considered, however, that Dr Crocker had not fully taken responsibility for the deliberate assault which he carried out. Whilst bearing in mind that a registrant can dispute facts at Stage 1 and yet nevertheless demonstrate insight, the Tribunal considered that Dr Crocker had only demonstrated limited insight into the gravity of his actions.

99. The Tribunal noted that, whilst Dr Crocker had recognised that the incident of 11 May 2023 had serious consequences and that he had offered an immediate apology, his apologies were expressed in terms which sought to limit his individual responsibility for what had happened. In this regard the Tribunal noted that in his letter of apology addressed to Ms A dated 21May 2023 Dr Crocker said that he deeply regretted *"…that this event happened…I am so very sorry"*, which fell short of accepting responsibility for his own behaviour. Similarly, in his reflective statement, Dr Crocker reflected on the impact of the incident by first reflecting on the impact upon himself: *"The impact on me of this traumatic incident was one of immediate considerable shock and anguish"*. Reflecting on the impact upon Ms A in the same document he said: *"Striking Ms A was completely unintended, but resulted in physical injury and psychological consequences…"* Further, *''my attempt to discuss and clarify a very private matter with Ms A… resulted in a disastrous outcome for her''*. Whilst accepting Mr Colman's submission that Dr Crocker will continue to reflect on the incident in light of the Tribunal's finding that the assault was carried out deliberately, the Tribunal did not currently have evidence that Dr Crocker accepts responsibility for deliberately assaulting Ms A.

100. The Tribunal therefore considered that Dr Crocker's insight into his behaviour is limited and incomplete. The Tribunal was sympathetic to the context of XXX and work-related stress in the lead up to the assault, however, Dr Crocker has not currently demonstrated that

he understands how this led him to react with such behaviour to be deliberately violent toward and cause injury to a colleague.

101. The Tribunal considered that a member of the public who heard of the facts of this case would be shocked and that public confidence in the profession would be undermined if a finding of impairment was not made.

102. The Tribunal considered that fellow members of the profession would find Dr Crocker's behaviour reprehensible.

103. The Tribunal therefore determined that Dr Crocker's fitness to practise is impaired by reason of a conditional caution. It determined that a finding of impairment was necessary 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 Sanction - 27/11/2024

104. Having determined that Dr Crocker's fitness to practise is impaired by reason of a conditional caution, 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

105. The Tribunal took into account evidence received during the earlier stages of the hearing, where relevant, to reaching a decision on sanction. It received no further evidence at this stage.

Submissions

GMC submissions

106. On behalf of the GMC, Mr Potts submitted that Dr Crocker's conduct is fundamentally incompatible with continued registration. He submitted that erasure was the only sanction that would protect public confidence in the profession and uphold proper standards for the medical profession, was erasure.

107. Throughout his submissions Mr Potts referred the Tribunal to various paragraphs of the Sanctions Guidance (2024 version) (SG). He submitted that the SG advises that sanctions are not imposed to punish or discipline doctors, but may have a punitive effect. However, he submitted that the SG makes clear that the reputation of the profession as a whole is more important than the interests of any individual doctor.

108. Mr Potts submitted that the decision of the police to offer a conditional caution should not be taken as minimising the seriousness of the offence in this case. He submitted that this was a serious offence with substantial and lasting impact on Ms A and others.

109. Mr Potts reminded the Tribunal that it must consider aggravating and mitigating factors against the central aim of sanctions.

110. Mr Potts submitted that the GMC does not have any evidence to contradict what Dr Crocker has said about XXX and the circumstances leading up to this assault. He submitted that it was a relatively recent incident and, therefore, that the elapse of time is not a mitigating factor in this case. He submitted that Dr Crocker's insight (and therefore his attempts to remediate his behaviour) is incomplete. Further, that the apology offered to Ms A is likewise not commensurate with the deliberate assault which has been found proven, thus substantially reduces any mitigating impact.

111. Mr Potts submitted that Dr Crocker has failed to be open and honest during this hearing. He submitted that this is a serious aggravating factor. He further submitted that Dr Crocker's conduct represents a serious failure to work collaboratively with colleagues, which he submitted was also an aggravating feature.

112. Mr Potts reminded the Tribunal that it must consider each possible sanction, starting with the least restrictive option and working upwards to the most appropriate and proportionate.

113. Mr Potts submitted that this was not a case where the Tribunal would consider it appropriate to take no action. He submitted that were no exceptional circumstances which could justify this course.

114. With regard to conditions or undertakings, Mr Potts submitted that these would not be appropriate because of Dr Crocker's lack of insight and failure to take responsibility for his behaviour. He submitted that the behaviour giving rise to Dr Crocker's caution represents such a fundamental breach of the standards expected of medical professionals, and indeed of the law more widely, that there are no targeted conditions which could address it.

115. Mr Potts submitted that suspension would not be appropriate because Dr Crocker's conduct is fundamentally incompatible with continued registration.

116. Mr Potts drew the Tribunals attention to paragraph 93 of the SG which provides:

> *"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".*

117. Mr Potts submitted that whilst the Tribunal concluded that the risk of repetition was low, it also concluded that Dr Crocker has not currently demonstrated that he understands how the factual background led him to react with such behaviour to be deliberately violent toward and cause injury to a colleague. Mr Potts submitted that Dr Crocker has had ample

time and opportunity in a variety of settings to reflect on his conduct, and offer an explanation of the type envisaged by the Tribunal. Mr Potts submitted that Dr Crocker has failed to take any such opportunity and that this failure was compounded by giving evidence in these proceedings which was misleading and at odds with the facts. He submitted that there was, therefore, evidence that remediation is unlikely to be successful and that the Tribunal cannot be satisfied that Dr Crocker has insight, which are factors indicating that suspension may not be appropriate.

118. Mr Potts submitted that although the Tribunal did not make a finding of impairment on the grounds of public safety, erasure is nonetheless available as a sanction in this case.

119. Mr Potts drew the Tribunal's attention to paragraph 108 of the SG which provides that:

> *'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 …'*

120. Mr Potts submitted that the confidence of the public would inevitably be significantly damaged by a doctor who had punched a colleague twice in the face in the workplace.

121. Mr Potts also referred the Tribunal to paragraph 109 of the SG which provides a non-exhaustive list of factors that may indicate erasure is appropriate. He submitted that the following apply in this case:

> *(a) A particularly serious departure from the principles set out in Good Medical Practice where the behaviour is difficult to remediate.*
>
> *(b) A deliberate or reckless disregard for the principles set out in Good Medical Practice and/or patient safety.*
>
> *(g) Offences involving violence.*
>
> *(j) Persistent lack of insight into the seriousness of their actions or the consequences.*

122. Mr Potts reiterated the Tribunals finding at Stage 2 that it was *'difficult to remediate the serious impact on public confidence in the profession in circumstances where a doctor deliberately assaulted a colleague.'*

123. In respect of paragraph 109j referred to above, Mr Potts submitted that Dr Crocker has failed over the course of 18 months since the assault to show appropriate insight into the seriousness of his actions. He submitted that the effect of this was to require witnesses to give evidence, which was accepted by the Tribunal as credible and truthful. In contrast, Dr Crocker gave evidence which was rejected as lacking credibility. Mr Potts submitted that notwithstanding that maintenance of innocence does not necessarily equal lack of insight, it is nevertheless highly relevant to sanction.

124. In conclusion, Mr Potts submitted that the GMC endorses the Tribunal's finding that Dr Crocker's conduct was shocking and reprehensible. Taking into account the seriousness of the conduct, all aggravating and mitigating factors, and the overarching objective, Mr Potts submitted that Dr Crocker should be erased from the register.

Submissions on behalf of Dr Crocker

125. On behalf of Dr Crocker, Mr Colman submitted that a period of suspension was the appropriate sanction in this case.

126. Mr Colman noted the GMC submission that Dr Crocker has not currently demonstrated that he understands how he reacted with such behaviour to be deliberately violent towards and cause injury to a colleague. However, he submitted that this is better viewed as a failure of understanding, as a genuine mystification on Dr Crocker's part, rather than as any dishonest attempt to mislead the Tribunal deliberately. Mr Colman also submitted that the Tribunal will be wary of the pliability of human perception and recall and not impose any sanction that gives undue to weight to Dr Crocker's maintenance of his defence instead of the facts of the allegation itself.

127. Mr Colman submitted that within the calm and courteous setting of this Tribunal, it was almost impossible to understand what in the world possessed Dr Crocker to punch Ms A twice in the face. Mr Colman submitted that Dr Crocker is not someone in any way naturally prone to angry outbursts of violence. He submitted that the testimonial evidence speaks to Dr Crocker's true character.

128. XXX

129. XXX

130. Mr Colman submitted that it will never going to happen again. He explained that XXX and that Dr Crocker has retired. Mr Colman reminded the Tribunal that it has already found that the likelihood of repetition is so low that a finding of impairment on the basis of public protection was not required. Mr Colman submitted that this was single isolated incident and needs to be considered alongside Dr Crocker's long career during which no other similar incidents have occurred.

131. Mr Colman submitted that it was unnecessary and unfair to end Dr Crocker's long record of good work and public service with the disgrace of regulatory erasure. He submitted that rather than the 'blunt instrument' of erasure, a limited period of suspension would be an effective and proportionate regulatory stricture, sending a clear message to the public and fellow professionals while also reflecting the sort of measured and balanced response that is equally important to fomenting trust in professional regulation.

132. Mr Colman noted the Tribunal's finding that it is difficult to remediate the serious impact on public confidence in the profession where a doctor has deliberately assaulted a colleague. He submitted that whereas it is difficult for the doctor to do that, the sanction that the Tribunal will impose performs that function. Mr Colman submitted that Dr Crocker will continue to reflect on this awful episode through the duration of such sanction and beyond, but the expiration of that period should itself complete the process of restoring public confidence in the profession.

The Relevant Legal Principles

133. The decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgement. It should have regard to the SG and if it departs from that guidance, it must outline its reasons for doing so.

134. The Tribunal had regard to the statutory overarching objective, which includes protecting and promoting the health, safety and wellbeing of the public, promoting and maintaining public confidence in the profession, and promoting and maintaining proper professional standards and conduct. It was reminded not to give excessive weight to any one limb.

135. The Tribunal had regard to the principle of proportionality by weighing Dr Crocker's interests against the interests of the public. It recognised that the purpose of a sanction is not to be punitive, although it may have a punitive effect. The Tribunal must consider the least restrictive sanction first, before moving on to consider more serious sanctions, and the sanction imposed should be the minimum action required to protect the public.

136. The Tribunal should also consider any relevant aggravating and mitigating factors and address those within the context of its determination on sanction.

The Tribunal's Determination on Sanction

Aggravating and mitigating factors

137. The Tribunal first considered the aggravating and mitigating factors in this case.

138. The Tribunal noted paragraph 55b of the SG which advises that an aggravating factor likely to lead to consideration or more serious action, including '*a failure to work collaboratively with colleagues.'* The Tribunal considered that this was engaged by the very nature of the case. The Tribunal also had regard to paragraph 116 of the SG:

> *'The purpose of a hearing is not to punish a doctor for a second time for the offences they were found guilty of.'*

139. The Tribunal also considered the significant impact Dr Crocker's actions had on Ms A. It noted in her witness statement of 13 June 2024, she stated that:

> *'I am still undergoing counselling following this incident, and I was off work for two and a half months with stress and anxiety, which was then diagnosed as PTSD which is still leaving me sleep deprived. After my sick leave I had a fazed return to work. Although I am back to working my full hours at work, I have been given longer appointments, and will continue with this rota until January 2024. I live in… which is where Dr Crocker also lives, which causes me anxiety when I am walking around, and constantly look around to ensure that I don't see him. As a nurse, I have worked in several busy emergency departments and have never been left traumatised by such an action by a trusted colleague. This has affected my family, work colleagues and friends…'*

140. The Tribunal did not accept the GMC's submission that the manner in which Dr Crocker gave his evidence to the Tribunal represented a failure to be honest, a serious aggravating factor. The Tribunal considered that Dr Crocker had defended the allegation against him and that the evidence he had given was found not to be credible but the Tribunal could not be satisfied this was because Dr Crocker had deliberately tried to mislead the Tribunal.

141. In regard to mitigating factors, the Tribunal considered paragraph 25 of the SG:

> *25 The following are examples of mitigating factors.*
>
> *a Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it. This could include the doctor admitting facts relating to the case, apologising to the patient... making efforts to prevent behaviour recurring...*
>
> *b Evidence that the doctor is adhering to important principles of good practice… and of the doctor's character and previous history. This could include evidence that the doctor has not previously been found to have impaired fitness to practise by a tribunal, a previous MPTS panel or by the GMC's previous panels or committees*
>
> *d Personal and professional matters, such as work-related stress.*

142. Considering the level of insight demonstrated by Dr Crocker and whether this was a mitigating factor, the Tribunal had regard to the findings made at impairment stage. It noted paragraph 52a SG which advises that a doctor is likely to lack insight if they *'refuse to apologise or accept their mistakes'.* Whilst Dr Crocker has apologised, the Tribunal considered that he had not fully accepted his mistakes in that he had, in the Tribunal's determination, failed to accept that responsibility for his actions lay with him. Nevertheless, the Tribunal considered that Dr Crocker had demonstrated some insight. He had accepted that his fitness to practise was impaired by virtue of his receiving a conditional caution; he had taken steps

to attempt remediation, as set out in the Tribunal's determination on impairment; and that this represented a modest degree of mitigation.

143. The Tribunal considered that Dr Crocker's character and previous history as evidenced by his testimonials were also a mitigating factor.

144. The Tribunal recognised that Dr Crocker had XXX and that these were a mitigating factor because Dr Crocker had perceived a particular danger during the incident when the door was closed XXX. Further, Dr Crocker told the Tribunal that he had been experiencing work-related stress and that this had impacted upon his behaviour – the Tribunal accepted this.

145. In particular, the Tribunal considered that XXX Dr Crocker was experiencing at the time was a strong personal mitigating factor (SG 25 d). The Tribunal accepted Dr Crocker's description of XXX and considered that the distress this caused Dr Crocker was a large part of the reason he behaved in the out-of-character manner towards Ms A.

146. The Tribunal then went on to consider each of the sanctions available, starting with the least restrictive.

No action

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

148. The Tribunal determined that there are no exceptional circumstances in this case. It considered that it would not be sufficient, proportionate, or in the public interest to conclude this case by taking no action.

Conditions

149. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Crocker's registration. The Tribunal bore in mind that any conditions imposed would need to be appropriate, proportionate, workable, and measurable.

150. The Tribunal considered that a period of conditional registration would not reflect the seriousness of the Tribunal's findings.

Suspension

151. The Tribunal considered whether suspension would be appropriate in this case. In so doing it considered the following paragraphs of the SG to be relevant:

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

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

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

a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.

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.

152. The Tribunal also had regard to the paragraphs of the SG indicating when erasure may be the appropriate sanction.

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 difficult to remediate.

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

c Doing serious harm to others (patients or otherwise), either deliberately or through incompetence…

g Offences involving violence.

153. The Tribunal also noted the following paragraphs of the SG:

138 More serious outcomes are likely to be appropriate if there are serious findings that involve:

c physical violence towards colleagues

154. The Tribunal considered that various factors in the SG indicate that erasure may be appropriate in Dr Crocker's case. However, the Tribunal bore in mind that Dr Crocker's behaviour was an isolated aberration set against a long career and was completely out of character. Moreover, the Tribunal was swayed by the powerful mitigating factor in this case XXX.

155. The Tribunal considered that the behaviour which lay behind the conditional caution was serious and that it was necessary to impose a significant sanction to uphold public confidence in the medical profession and to maintain proper professional standards and conduct for members of the profession. The Tribunal considered that an informed member of the public or a doctor would expect Dr Crocker's behaviour to be met by a serious regulatory sanction.

156. The Tribunal considered that if the mitigating features identified above were not present, the findings of the Tribunal were so serious that they would justify erasure. The Tribunal further considered, however, that an informed member of the public who was aware of the mitigating factors – particularly the distress which Dr Crocker was experiencing at the time of the incident XXX – would recognise that this significant mitigation justified the Tribunal in stepping back from the most serious sanction of erasure.

157. The Tribunal considered that whilst such violent behaviour towards a colleague was a serious matter, that when considered alongside the mitigating factors, it was not conduct which was incompatible with continued registration.

158. Balancing the seriousness of the findings and aggravating factors on the one hand with the significant mitigation on the other, the Tribunal considered that the least restrictive sanction which gave effect to the overarching objective of protecting the public was a period of suspension. The Tribunal considered that this was a proportionate regulatory response to the seriousness of the findings, whereas erasure would be disproportionate when the substantial mitigation was taken into account. The Tribunal considered that a period of suspension sent out an adequate signal to Dr Crocker, the profession and public about what is regarded as behaviour unbefitting of a registered doctor.

159. The Tribunal considered the length of the period of suspension. Given the seriousness of the findings the Tribunal considered this case was finely balanced between erasure and suspension, and therefore nothing less than the maximum period of suspension available

would serve to uphold the overarching objective in this case. Accordingly, it determined to impose a suspension of 12 months.

160. The Tribunal determined to direct a review of Dr Crocker's case. A review hearing will convene shortly before the end of the period of suspension at which the onus will be on Dr Crocker to demonstrate that his fitness to practise is no longer impaired. The Tribunal considered that a review tribunal would be assisted by evidence that Dr Crocker has reflected on the gravity of the Tribunal's findings and developed further insight, as well as maintained his skills and knowledge. Dr Crocker will also be able to provide any other information that he considers will assist the review tribunal.

Determination on Immediate Order - 27/11/2024

161. Having determined to suspend Dr Crocker's registration for a period of 12 months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Crocker's registration should be subject to an immediate order.

Submissions

162. On behalf of the GMC, Mr Potts submitted that an immediate order was not sought in this case. He submitted that there was no need for an immediate order and that that the substantive order can take effect at the usual time. He also confirmed that there was no interim order in place.

163. On behalf of Dr Crocker, Mr Colman submitted there was no risk to public safety and that an immediate was not necessary and would extend the period of suspension beyond the maximum period already imposed.

The Tribunal's Determination

164. In reaching its decision, the Tribunal has exercised its own judgement and has taken account of the principle of proportionality. The Tribunal had regard to the relevant paragraphs of the SG which advise when an immediate order might be appropriate. The Tribunal bore in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public or otherwise in the public interest or is in the best interests of the practitioner.

165. The Tribunal determined that an immediate order was not necessary in this case to protect members of the public. It also considered that an immediate order was not otherwise in the public interest which it determined was served by its finding of impairment and the substantive sanction of 12 months suspension. Moreover, the Tribunal considered that an immediate order was not in Dr Crocker's best interests.

166. This means that Dr Crocker's registration will be suspended from the Medical Register 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 Crocker does lodge an appeal he will remain free to practise unrestricted until the outcome of any appeal is known.

167. There is no interim order to revoke.

168. That concludes the case.