PUBLIC RECORD

Dates: 22/01/2024 - 29/01/2024

Medical Practitioner's name:	Dr Paul GRANT
GMC reference number:	6057253
Primary medical qualification:	MB BS 2002 University of London

Type of case

Restoration following disciplinary erasure

Summary of outcome

Restoration application refused.
No further applications allowed for 12 months from last application.

Tribunal:

Legally Qualified Chair:	Mrs Kim Parsons
Lay Tribunal Member:	Mr Martyn Green
Medical Tribunal Member:	Dr Sarah Jeffery

Tribunal Clerk:	Miss Emma Saunders

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Aidan Carr, Burton Copeland
GMC Representative:	Mr Nicholas Walker, 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 Restoration - 29/01/2024

1. The Tribunal has convened to consider Dr Grant's application for his name to be restored to the Medical Register following his erasure for disciplinary reasons in 2018.

2. The Tribunal has considered the application in accordance with Section 41 of the Medical Act 1983, as amended ('the Act') and Rule 24 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules').

3. This is Dr Grant's first application to be restored to the Medical Register.

Background

4. Dr Grant qualified in 2002 from the University of London with an MBBS and an intercalated BSc in Psychology. At the time of the events that led to Dr Grant's erasure, he was practising as a Consultant Physician in Endocrinology and Diabetes at the Sussex Community NHS Foundation Trust ('the Trust'). Prior to this he had held locum Consultant posts for more than three years. He had passed his membership examination for the Royal College of Physicians (RCP) in 2006 and commenced his training in General Internal Medicine, Endocrinology and Diabetes Mellitus in September 2018. Dr Grant's name was entered onto the GMC's Specialist Register in June 2013.

5. The circumstances that led to Dr Grant's erasure relate to an MPTS hearing that took place in 2017, and a subsequent MPTS hearing in 2018 where new allegations were considered alongside a review of the 2017 matters.

The 2017 Tribunal hearing

6. A Medical Practitioners Tribunal (MPT) convened to consider Dr Grant's case on 13 March to 6 April 2017 and 25 to 26 September 2017 ('the 2017 Tribunal'). Dr Grant was present and represented at this hearing. He made admissions to a large proportion of the paragraphs of the Allegation.

7. The 2017 Tribunal found proved a number of allegations relating to Dr Grant's research and publication work. It found that Dr Grant's actions had been misleading and/or dishonest in a number of matters, including that he:

- was found to have inappropriately provided acknowledgements to a fictitious person in journal papers on four occasions;

- failed to obtain ethical permission for a control group study;
- submitted papers to journals in the knowledge that he had not made the changes required by his co-authors;
- forged the signature of two of his co-authors;
- failed to notify co-authors that he had submitted previous versions of a paper to a journal.

8. The 2017 Tribunal found that Dr Grant was in contravention of the guidance on authorship set out in a number of guidance documents. It also found that Dr Grant had breached patient confidentiality and that he had fabricated the mean age of patients who were the subject of his study.

9. The 2017 Tribunal expressed its concern regarding Dr Grant's repeated misconduct, having found that he had continued his actions despite having received a number of warnings from his colleagues and the Deanery. The 2017 Tribunal noted that Dr Grant had assured those concerned that he had learned a valuable lesson and that he now fully understood his obligations. The 2017 Tribunal concluded that, nonetheless, Dr Grant continued to act improperly and it could not be satisfied that there was no future risk of repetition at that time.

10. The 2017 Tribunal concluded that Dr Grant's repeated dishonest behaviour and other serious misconduct had brought the profession into disrepute and that he had breached the fundamental tenet of probity. Dr Grant's fitness to practise was found to be impaired by reason of misconduct and the 2017 Tribunal determined to suspend Dr Grant's registration for four months, and directed a review hearing.

The 2018 Tribunal hearing

11. A Medical Practitioners Tribunal (MPT) convened to consider new allegations regarding Dr Grant on 5 to 7 February 2018 and 15 to 17 May 2018 ('the 2018 Tribunal').

12. The 2018 Tribunal found proved that Dr Grant inappropriately used the title Fellow of the Royal College of Physicians (FRCP) on his college and NHS email signatures, on his profile page on the Nuffield Health website, and in his signature on letters whilst working at the Trust - in the knowledge that Fellowship had not been awarded.

13. The 2018 Tribunal found that Dr Grant's actions in holding himself out to be an FRCP were dishonest. It found Dr Grant's evidence *"neither credible or persuasive"*. It found he was *"aggressive"* in his responses. The 2018 Tribunal found that Dr Grant had received no

confirmation from the RCP that he had been awarded Fellowship status and that there was no legitimate explanation for him having changed his post-nominals to 'FRCP'. The 2018 Tribunal found that Dr Grant's actions in this regard were dishonest and it inferred that his motivation was to secure an editorial role at the RCP. This role was as Editor-in-Chief of the RCP publication 'Clinical Medicine'.

14. The Tribunal also found Dr Grant's evidence that he had not checked his profile on the Nuffield website *"incredible"*. It found he had listed himself as a Fellow of the RCP when he was not entitled so to do (applying for practising privileges). Further that the use 'Fellowship of the RCP' remained on the Nuffield website for several months after he had assured a colleague that he would no longer use the FRCP post nominal.

15. At the February 2018 hearing the Tribunal concluded that Dr Grant's fitness to practise was impaired by reason of the new Allegation. Dr Grant was present and represented at these hearings. As mentioned above, once the facts were found proved, the MPT also conducted a review of the 2017 matters. It returned in May 2018, to consider the appropriate sanction to impose for the new Allegation and to conclude the review hearing.

16. The 2018 Tribunal noted the conclusions reached by the 2017 Tribunal and bore in mind that it came to those conclusions without knowledge of Dr Grant's more recent misconduct that took place in 2016 and 2017. The 2018 Tribunal determined that the misconduct from both MPT hearings involved Dr Grant misleading his professional colleagues and damaged public confidence in the profession.

17. The 2018 Tribunal noted that no patient was harmed and that the evidence before the Tribunal suggested that Dr Grant was a good clinician. Dr Grant had created a new diabetes service, which had had a positive impact on patients. He had made significant efforts to keep his medical skills up to date by keeping a CPD diary and had undertaken volunteer work.

18. By the May 2018 Tribunal hearing, Dr Grant was now admitting that he was dishonest at the February 2018 hearing.

19. The Tribunal noted that Dr Grant gave similar indications of his insight and remorse after adverse findings had been made against him by the 2017 Tribunal. That he had made no admissions of dishonesty at the outset of the 2018 Tribunal and only one at the outset of the 2017 Tribunal relating to having forged the signatures of his professional colleagues.

20. The Tribunal concluded:

"The tribunal now finds itself in the same position as set out by the 2017 tribunal. It cannot accept that you have put your propensity for dishonesty behind you. By your own admission you lied to this tribunal as recently as February 2018."

21. The 2018 Tribunal noted that, following their findings on facts and impairment, Dr Grant had admitted that his actions were dishonest and he had apologised to the RCP for his actions. In contrast, the 2018 Tribunal had found that Dr Grant's dishonesty was far from isolated despite assertions by Dr Grant that he was a changed character and, by his own admission, he had lied to that Tribunal in oral evidence as recently as February 2018.

22. The 2018 Tribunal determined that Dr Grant's misconduct had betrayed the trust of his professional colleagues and many organisations, including the RCP, the Trust, and the GMC. It concluded that Dr Grant posed a significant danger of repetition of such misconduct. The 2018 Tribunal also concluded that Dr Grant's conduct was fundamentally incompatible with continued registration. It determined to erase Dr Grant's name from the Medical Register.

The Current Restoration Hearing

New allegations of impaired fitness to practise

23. Further to the application for restoration, the GMC has alleged that there are additional concerns that call into question Dr Grant's fitness to practise.

24. The concerns relate to Dr Grant's conduct in 2016 and 2017, and were not before either of the 2017 or 2018 Tribunals. The Statement of Case sets out that it is alleged by the GMC that Dr Grant:

- misled the Trust in May 2016 when he was interviewed and then submitted a declaration form upon his appointment as a Consultant Endocrinologist. The GMC alleges that Dr Grant had been formally notified of the allegations being investigated in correspondence dated March 2016 and he misled the Trust as to the extent and seriousness of the allegations;
- gave untrue information during a Trust disciplinary hearing on 14 December 2017 in that he alleged that he was not aware of the contents of the GMC correspondence from March 2016 at the time of his interview and when submitting the declaration form;
- published articles on his publicly accessible LinkedIn Account, which was contrary to an interim order of conditions that was imposed on 7 April 2017;

- knew that he had published papers on his LinkedIn Account, despite having made assurances to the 2017 Tribunal, via his legal representative, that he had ceased publishing papers and would not be part of any publishing or editorial practice;
- submitted a testimonial from Ms A in his Rule 7 response dated 14 November 2017 when he knew that Ms A had withdrawn her testimonial.

The Outcome of Applications made during the hearing

25. The Tribunal granted Dr Grant's application, made pursuant to Rule 34(1) of the Rules, for the admission of further evidence. The Tribunal had regard to the case management directions that had been given at the pre-hearing stage. The Tribunal's full decision on the application is included at Annex A

26. The Tribunal granted the GMC's application, made pursuant to Rule 17(6) of the Rules, for the amendment of the Statement of Case at paragraphs 1(b), 8, 9 and Schedule 2. The Tribunal's full decision on the application is included at Annex B.

The new allegations (Statement of Case) and the Doctor's Response

27. The Statement of Case is as follows:

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

GMC Investigation

1. You were under investigation by the GMC and you were formally notified of the allegations being investigated:

a. by a letter from the GMC dated 2 March 2016 ('Rule 7 Letter');
Admitted and found proved

b. during a meeting with your legal team on 12 ~~March~~ May 2016.
Amended under Rule 17(6)
Admitted and found proved

2. On 13 May 2016 you were interviewed for the post of Consultant Endocrinologist at Sussex Community NHS Trust (the 'Trust').
Admitted and found proved

3. On 20 May 2016 you submitted a Declaration Form ('the Declaration Form') to the Trust upon your appointment as Consultant Endocrinologist at the Trust.
Admitted and found proved

4. During your actions at paragraph 2 and 3 above you misled the Trust as to the:

a. the extent of the allegations being investigated by the GMC;
Admitted and found proved

b. the seriousness of the allegations being investigated by the GMC.
Admitted and found proved

5. On 14 December 2017 during the Trust disciplinary hearing you alleged that you were not aware of the contents of the Rule 7 Letter at:

a. the time of your interview on 13 May 2016;
Admitted and found proved

b. when you submitted the Declaration Form;
Admitted and found proved

which was untrue by reason of paragraph 1.

6. You knew the information you gave during your disciplinary hearing was untrue.
Admitted and found proved

7. Your conduct at paragraph 5 was dishonest by reason of paragraph 6.
Admitted and found proved

Interim order of Conditions

8. On 7 April ~~2016~~ 2017 in your presence a Medical Practitioners Tribunal handed down an interim order of conditions restricting your medical practice, details of which can be found at Schedule 1.
Amended under Rule 17(6)
Admitted and found proved

9. On the dates set out in Schedule 2, you published an article~~s~~ on your publicly accessible LinkedIn Account, which was contrary to your interim order of condition detailed at Schedule 1.
Amended under Rule 17(6)
To be determined

10. You knew your conduct at paragraph 9 contravened the interim order of conditions. To be determined

11. Your conduct at 9 was dishonest by reason of paragraph 10.
To be determined

Submissions to the Medical Practitioner's Tribunal

12. Between 13 March 2017 and 26 September 2017 through your legal representative you made assurances to the Medical Practitioner's Tribunal that you:

a. had ceased publishing papers;
Admitted and found proved

b. would not be part of any publishing or editorial practice;
Admitted and found proved

13. When making these submissions you knew you had published papers on your LinkedIn Account which was available to the public. To be determined

14. Your conduct at paragraph 12 was dishonest by reason of paragraph 13.
To be determined

Testimonial

15. In or around August 2017 Ms A notified your legal representative that she wished to withdraw her testimonial (the 'Testimonial').
Admitted and found proved

16. On 14 November 2017 in response to the GMC's disclosure under Rule 7 of the Fitness to Practise Rules you submitted your response and included the Testimonial in your support. Admitted and found proved

17. You knew the Testimonial had been withdrawn by Ms A.

To be determined

18. Your conduct at 16 was dishonest by reason of paragraph 17.

To be determined

The Admitted Facts

28. Dr Grant made admissions to some paragraphs and sub-paragraphs of the Statement of Case, as set out above, in accordance with Rule 17(2)(d) of the Rules. He stated that he made these admissions within the contextualised circumstances set out in his witness statement. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs proved.

The paragraphs of the Statement of Case to be Determined

29. In light of Dr Grant's response to the Statement of Case made against him, the Tribunal is required to determine whether Dr Grant published an article on his LinkedIn account contrary to his interim order of conditions, knew that his conduct contravened that order and was therefore dishonest. In addition, whether Dr Grant had therefore been dishonest in his submissions to the 2017 Tribunal when he said he had ceased publishing papers and would not be part of any publishing or editorial practice. Further, whether Dr Grant knew that Ms A had withdrawn her testimonial and his conduct in submitting that to the GMC was therefore dishonest.

30. Further, it is the GMC's case that Dr Grant's admissions are not unequivocal and the Tribunal ought properly to make its own findings of fact where this is the case.

The Evidence

31. The Tribunal has taken into account all the evidence that it has received, both oral and documentary.

Witness Evidence

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

- Ms A, who currently works as a locum General Practitioner (GP), having been a GP for 16 years. Ms A was the Deputy Medical Director at the Trust from April 2016

to February 2018, which included six months as Acting Medical Director. In 2018, Ms A moved to the Clinical Commissioning Group for a year before returning to the Trust as a ward doctor. She left the Trust in May 2023.
Her witness statement was dated 29 August 2023 and she gave oral evidence to the Tribunal on 23 January 2024;

- Dr B, Deputy Medical Director at Southeast Coast Ambulance Service NHS Foundation Trust. He assumed this role in June 2019 and, prior to this, he was the Medical Director at the Trust from 1 April 2012 to 31 May 2019.
His witness statement was dated 8 August 2023 and he gave oral evidence to the Tribunal on 23 January 2024.

33. The Tribunal also received evidence on behalf of the GMC in the form of a witness statement from Mr C, GMC Investigation Officer, who was not called to give oral evidence. His witness statement was dated 13 September 2023.

34. Dr Grant provided his own undated witness statement relating to the 2018 complaints and an expanded statement to cover general matters. Associated exhibits were also provided by Dr Grant. He also gave oral evidence at the hearing on 24 January 2024.

Documentary Evidence

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

- GMC Rule 7 correspondence sent to Dr Grant and his previous legal representatives in March 2016;
- MPTS Interim Orders Tribunal (IOT) determination dated 13 March 2017;
- Email from Dr Grant's previous legal representatives to the GMC dated 20 May 2016, and then Rule 7 response on 24 May 2016;
- Dr Grant's job application to the Trust, and a declaration form dated 20 May 2016;
- Letter dated 10 May 2017 from the Trust to Dr Grant regarding disciplinary proceedings;
- Trust Investigation Report dated 28 June 2017;
- MPTS Record of Determination, for a hearing which concluded on 26 September 2017 - Dr Grant was suspended for four months;
- Dr Grant's response to new allegations (subsequently dealt with at the 2018 Tribunal) dated 14 November 2017 (which included reference to Ms A's testimonial);

- Email to the GMC dated 15 November 2017 regarding testimonial evidence;
- Email correspondence between Dr B and Ms A regarding the testimonial evidence;
- Details of Dr Grant's articles published on LinkedIn from December 2017;
- Letter to the GMC from Dr B with further concerns dated 11 December 2017;
- Minutes of the disciplinary meeting dated 14 December 2017;
- Disciplinary hearing summary of concerns dated 5 January 2018;
- Outcome of appeal letter regarding matters dealt with at the disciplinary hearing dated 27 March 2018;
- MPTS Record of Determination, 5-7 February 2018 and 15-17 May 2018 Dr Grant's name was erased from the Medical Register;
- Transcripts of the MPTS substantive hearings;
- Dr Grant's Restoration Application dated 29 December 2022;
- Written reflections from Dr Grant dated November 2022, May 2023 and December 2023;
- Documents regarding Dr Grant's coaching work completed;
- A Continuing Professional Development (CPD) diary, CPD certificates, clinical observations, colleague 360 feedback and other associated material;
- A number of references/testimonials on Dr Grant's behalf.

Testimonials

36. The Tribunal had regard to the testimonials provided on behalf of Dr Grant. It noted that the writers of those testimonials had not been made aware of the new allegations before this Tribunal, including principally the admissions that Dr Grant was to make. The writers seemingly had been informed of Appendix A the Allegation presented to the 2018 Tribunal. It was not apparent from the testimonials that the writers were aware of the 2017 Allegation. Overall, in these circumstances the Tribunal attached limited weight to the testimonials provided.

37. The Tribunal was made aware of issues with Dr Grant's solicitors internal case management system that led to difficulties in accessing these testimonials. Nevertheless, the Tribunal took the view that it was open to Dr Grant or his legal representative to go back to the writers of the testimonials to obtain updated testimonials after the Statement of Case was provided to him in October 2023, to check they did not wish to withdraw their testimonials or amend them in any way.

38. In terms of the references concerning Dr Grant's work with the Samaritans, the Tribunal placed weight on the fact that Dr Grant had provided a high degree of assistance to supporting their service and to supporting users of that service. This was to Dr Grant's credit.

39. In relation to Dr Grant's work at Medefer, the Tribunal noted that there had been no concerns as to Dr Grant's probity in that role and he appears to have been an asset to that organisation in the non-clinical role he works in.

40. The Tribunal noted that the testimonial from Dr D was dated 8 January 2024. However, there was no reference to the Statement of Case before this Tribunal. Dr D spoke of four coaching sessions that Dr Grant completed with him in October 2022, December 2022, January 2023 and March 2023. The Tribunal noted these sessions took place before Dr Grant was sent the Statement of Case. While making it clear that Dr D had seen the allegations resulting in Dr Grant's erasure, the Tribunal was of the view that the lack of reference to the additional matters meant that the weight that the Tribunal could place on this testimonial was also limited.

Submissions

Submissions on behalf of the GMC

41. Mr Walker, Counsel on behalf of the GMC, stated that it was accepted that all of the allegations about which the Tribunal was concerned dated back some time. It was also accepted by the GMC that Dr Grant has kept himself up to date in an assiduous fashion in as much as he has evidenced a significant amount of CPD. Mr Walker stated that it was also clear that Dr Grant had reflected long and hard on the events that took place years ago. He submitted that the Tribunal's task might be to scratch beneath the surface of that and see how genuine that reflection is.

42. Mr Walker stated that GMC also had to acknowledge that any doctor in Dr Grant's position should always have the opportunity to go back to work. He made reference to the MPTS *'Guidance for medical practitioners tribunals on restoration following disciplinary erasure'* ('the guidance'). Mr Walker stated that the Tribunal may direct a doctor's name to be restored to the Medical Register if it thinks it fit to do so. He referred to the guidance, including that the Tribunal should *"step back and balance its findings against whether restoration will meet our overarching objective"*.

43. Mr Walker stated that the GMC reminded the Tribunal of the following two paragraphs of the guidance:

"B42 Where a doctor's past behaviour is so serious that it remains capable of undermining the trust that the public places in doctors, it is unlikely that restoration will be in line with the overarching objective. This applies to behaviour both inside and outside of a doctor's professional practice. There will be some cases where, even if insight and remediation have been fully demonstrated and there has been a significant lapse of time since erasure, public confidence in the profession would be undermined by allowing the doctor to practise again.

B43 Tribunals should ask themselves whether an ordinary, well informed member of the public who is aware of all the relevant facts would be concerned to learn the doctor had been allowed to return to practice. They should also have regard to the fact that maintaining public confidence in the profession as a whole is more important than the interests of an individual doctor."

44. Mr Walker stated that the Tribunal would also be aware of the importance of the declaratory effect that erasure has to the profession and what conduct is incompatible with it. Mr Walker also referred to the new allegations that are placed before the Tribunal. He stated that there had been admissions, but some remained outstanding, and the GMC had to prove these on the balance of probabilities.

45. In terms of paragraphs 1 to 7 of the Statement of Case, Mr Walker submitted that the Tribunal would have to consider, when looking at remediation and insight in the round, whether or not it was satisfied that Dr Grant had wholly and unequivocally accepted the misconduct outlined. Mr Walker stated that Dr Grant would always have his perception of events but that the Tribunal has the evidence before it, where the evidence was largely unchallenged and recollections are supported by contemporaneous documents. He submitted that this was not a case where the passage of time could properly and fairly be said to have diminished the importance and impact of that evidence.

46. Mr Walker stated that the GMC submitted that what the Tribunal might see from Dr Grant's witness statement was evidence of equivocation. He questioned whether it was right that Dr Grant seemed to be blaming those who interviewed him for not asking the right questions or the human resources department for not placing the material before the interviewing panel. Mr Walker stated that, in the statement, Dr Grant was telling the Tribunal that he was considered to be upfront by the interviewing panel. Mr Walker submitted that that showed no understanding of the situation - Dr Grant had not been upfront with them. Mr Walker questioned how it could be the fault of those conducting the interview and

whether they were meant to assume that a doctor was lying. Mr Walker asked the Tribunal if Dr Grant's insight was as fulsome as it was being invited to accept.

47. Mr Walker referred to Dr Grant's meeting with his lawyers the day before the interview with the Trust where he was giving final instructions to allow for the formal response to the allegations of dishonesty. Mr Walker accepted that, in due course, not all of them were found proved, but submitted that the extent and the seriousness of the dishonesty alleged was stark. Mr Walker also submitted that it was for that reason that Dr B said that if he had known about the full details, Dr Grant would not have been given the job. Mr Walker stated that it was common sense that the reason that Dr Grant did not give full disclosure was because he knew he would not get the job and he therefore obtained the job under false pretences, in much the same way as the 2018 Tribunal found he had when he used the FRCP post nominal.

48. Mr Walker submitted that, not only did Dr Grant lie to the interviewing panel, but he persisted with those lies before the disciplinary hearing in December 2017. He stated that Dr Grant had asserted that he was not aware of the contents of the Rule 7 letter at the time of his interview and when he submitted the Declaration Form. Mr Walker submitted that these must have been well thought out and calculated deceptions, whose only purpose would have been self-preservation. He invited the Tribunal to consider the inherently selfish nature of Dr Grant's acts, and noted that the Tribunal would balance that with the work he has done in the intervening period.

49. In terms of the alleged breach of the interim order of conditions, Mr Walker stated that it was entirely a matter for the Tribunal as to whether it accepted that the article posted on 25 September 2017 fell within the broad prohibition outlined in Schedule 1. He relied on Dr B's evidence that it gave the impression that it was an authoritative text. He stated that Dr B had explained that staff had brought the article to his attention that Dr Grant was holding himself to be in a position that he did not hold at the time and there was concern about it offending against the interim conditions. Mr Walker submitted that the Tribunal would be entitled to find these matters proved on Dr B's evidence.

50. Mr Walker stated that this would have to be weighed against Dr Grant's evidence that this was no more than a post on social media. Mr Walker submitted that it was far more than this. He invited the Tribunal to consider the purpose of the interim conditions to prevent further misleading and dishonest submissions by Dr Grant and to protect the public and the profession. Mr Walker also noted that the concerns, in respect of the submissions to the 2017 Tribunal, would likely stand or fall alongside the interim order of conditions matters.

51. As to Ms A's testimonial, Mr Walker submitted that the issue was whether or not Dr Grant knew that the testimonial had been withdrawn. He stated that the testimonial had been withdrawn when Ms A became aware of the extent of the allegations but Dr Grant used it in the Autumn of 2017 without going back to Ms A and asking for permission for it to be used for this different purpose. Mr Walker submitted that the inferences from the circumstances was that Dr Grant knew that he could not use the testimonial.

52. In terms of paragraphs 1 to 7 of the Statement of Case, Mr Walker submitted that they were undoubtedly serious. While not required to make a formal finding of misconduct, anyone lying in interview to their own advantage and persisting with those lies, would amount to conduct that would be seriously unprofessional. Mr Walker submitted that the risk of repetition was not low. He submitted that, considering what has been found proved previously and even just the admissions here, there must be real concern that Dr Grant is simply not fit to practise at this stage.

53. Mr Walker stated that there was clearly a public interest in doctors being able to return to practise but there was also a compelling public interest in making sure that the profession was not compromised by serially dishonest individuals. Mr Walker submitted that Dr Grant's dishonesty was too broad and went on for too long for it to be remediated at this early stage and for the Tribunal to be satisfied that the risk of repetition was such that the balance lay in his return to practise over the concerns of the public and profession when applying the overarching objective, notwithstanding the intervening years.

54. Mr Walker submitted that Dr Grant's misconduct was not a one-off. He lied to employers, to Tribunals, to colleagues, and - depending on the Tribunal's findings, potentially to the public. He submitted that B42 of the guidance was at the heart of this case, which was quoted earlier in this determination.

55. Mr Walker stated that, in conclusion, we are just a few years from when Dr Grant's name was erased from the Medical Register. He submitted that the situation had become more serious since that time rather than less. Although the matters in the Statement of Case all pre-date the decision to erase, Mr Walker submitted that the years had revealed somebody whose dishonest acts had permeated across much of their professional life and with many bodies. Mr Walker submitted that it was just too soon to restore Dr Grant to the Medical Register.

Submissions on behalf of Dr Grant

56. Mr Carr, Burton Copeland, stated that the fundamental question of restoration was a matter for the Tribunal's assessment. He submitted that Dr Grant was now being honest

about his past dishonesty and had repeatedly been transparent about this with others in multiple settings and over the course of several years, often where there was no need and to his detriment.

57. Mr Carr stated that if the revived complaint and admissions of further dishonesty (making up the Statement of Case) had been addressed at the time by the 2018 Tribunal then they would have contributed to the decision for erasure and would not be an issue now.

58. With reference to the Statement of Case, Mr Carr stated that the new matters had been largely admitted and Dr Grant`s evidence about this was largely to put matters into context and to advance his explanation in relation to those parts of the Statement of Case that were not admitted.

59. Mr Carr stated that it was acknowledged by limitation periods and the GMC's own five year rule that the passage of time makes accurate recollection of events extremely difficult and can sometimes mean that an honest witness comes across as *"quibbling"*, even though they are doing their best to be honest. Mr Carr asked the Tribunal to take this into account when evaluating the totality of the evidence received and heard at this restoration hearing.

60. Mr Carr submitted that it was open to Dr B, Ms A, or anyone from HR at the Trust, to make further enquires once Dr Grant declared the GMC investigation in his job application. Mr Carr stated that it was the GMC case, which Dr Grant has admitted, that he had fallen short of complete and utter upfront honesty.

61. Mr Carr, having heard Dr Grant's explanation regarding Ms A's reference and the social media posts, invited the Tribunal to find that Dr Grant was being honest and was entitled to advance his position regarding those allegations. He stated that the posts themselves were compliant with the 2013 GMC guidance on *'Doctors' Use of Social Media'*. Mr Carr submitted that Dr B had accepted that he had not read either of the social media posts and, in the absence of any expert evidence as to the differences between an academic paper submitted for publication and a social media post, invited the Tribunal to find in Dr Grant's favour.

62. Looking forward, Mr Carr submitted that the Tribunal had been provided with a large bundle of evidence to show that Dr Grant had tackled the underlying issues and been very open and transparent with others on an ongoing basis. He submitted that, since the events of 2017, there had been no repetition and no complaints. Mr Carr stated that others had commented that Dr Grant had actively steered clear of any potential problems areas.

63. Mr Carr stated that the question was whether Dr Grant is now currently a fit and proper person. He stated that the Tribunal would have experience with doctors who have lied and continue to lie. Mr Carr referred to Dr Grant's oral evidence. He suggested that the manner in which Dr Grant gave his evidence, including his body language and lack of prevarication, was honest and truthful. Mr Carr stated that he did not think that Dr Grant had been shown in cross-examination, as being dishonest or attempting to mislead the Tribunal. Mr Carr also referred to the concept of redemption.

64. Mr Carr submitted that there were no allegations regarding Dr Grant's clinical work and that he had professed his intention to confine his future practice to clinical work. Mr Carr submitted that Dr Grant had kept in touch with clinical work by undertaking observer-ships during the course of the last seven years. He referred to references from Dr Grant's current employer Medefer, where he has been employed in a non-clinical capacity. Mr Carr also referred to the references from Dr D, a XXX who had delivered coaching/mentoring, and from Mr E and Ms F, who worked with Dr Grant at the Samaritans.

65. Mr Carr also referred to the lengthy and detailed reflective statements completed by Dr Grant. He submitted that Dr Grant's CPD was focussed and detailed, in particular his attendance at the University of Edinburgh on the LLM Medical Law & Ethics course.

66. Mr Carr submitted that, even if restored to the Medical Register, Dr Grant would be subject to regulation by his employer in terms of supervision in an approved practice setting and, of course, by the GMC. He invited the Tribunal to find that Dr Grant was now an entirely different doctor to the one who was subject to investigation by the GMC and that he is a safe doctor to be restored to the Medical Register.

Relevant Legal Principles

67. The Tribunal reminded itself that its power to restore a practitioner to the Medical Register is a discretionary power to be exercised in the context of the Tribunal's primary responsibility to act in accordance with the statutory overarching objective, to protect the public, as set out later in this determination.

68. While the Tribunal has borne in mind the submissions made by the parties, the decision as to whether to restore Dr Grant's name to the Medical Register is a matter for this Tribunal exercising its own judgment.

69. Throughout its consideration of Dr Grant's application for restoration, the Tribunal was guided by the approach laid out in the MPTS *'Guidance for medical practitioners tribunals on restoration following disciplinary erasure'* ('the guidance').

70. The Tribunal reminded itself that the onus is on Dr Grant to satisfy it that he is fit to return to unrestricted practise and that the Tribunal should not seek to go behind the original Tribunal findings on facts, impairment and sanction. In respect of the new Statement of Case, the Tribunal had regard to C2 of the guidance, including that:

> *"The approach which should be taken by tribunals is to consider all the factors detailed in part B in relation to the original matters which led to erasure. In addition, where there are previously untested allegations which call into question the doctor's fitness to practise, tribunals must weigh the evidence carefully to reach a judgment:*
>
> *a firstly on whether the new allegations are proved on the balance of probabilities*
>
> *b secondly on whether the doctor's fitness to practise is impaired by reason of those new allegations."*

Statement of Case

71. In reaching its decision on the Statement of Case, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the paragraphs set out in the Statement of Case. Dr Grant does not need to prove anything in respect of the Statement of Case. 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.

72. Dr Grant admits some of the new allegations set out in the Statement of Case. He disputes others, including that he has been dishonest as set out at paragraphs 11, 14 and 18. It is relevant therefore for the Tribunal to consider the case of *Ivey v Genting Casinos (2017) UKSC 67* in which the Supreme Court set out a two stage test for dishonesty, and held that a fact-finding tribunal must:

> *"first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief may evidence whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held"*

73. Once that has been established, the Tribunal must determine "*whether [the individual's] conduct was dishonest by applying the objective standards of ordinary decent*

people. It is not necessary for the individual to appreciate that what he has done is, by those standards, dishonest".

74. The Tribunal also noted that Dr Grant's admissions to some paragraphs of the Statement of Case had been qualified. When making findings of fact the Tribunal has to consider each paragraph of the Statement of Case and separately evaluate the evidence in order to make its findings of fact.

Impairment

75. The Tribunal will then need to move on to consider whether or not Dr Grant's fitness to practise is currently impaired, taking into account:

> *"all the factors relevant to the original erasure and any new information, the tribunal should then take a step back and consider if the doctor is fit to practise and whether restoration is in line with the overarching objective, considering each of the three elements".*

76. In terms of impairment, the Tribunal was reminded of 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."*

77. The Tribunal must determine whether Dr Grant's fitness to practise is impaired today, taking into account Dr Grant'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.

78. The Tribunal reminded itself that there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

Restoration

79. The guidance sets out at B2 that the test for the Tribunal to apply when considering restoration is:

> *"Having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective?"*

80. The Tribunal reminded itself that, in making its decision, it should consider the following factors:

a. the circumstances that led to the erasure;
b. whether Dr Grant has demonstrated insight into the matters that led to erasure, taken responsibility for his actions and actively addressed the findings about his behaviour or skills;
c. what Dr Grant has done since his name was erased from the Medical Register;
d. the steps Dr Grant has taken to keep his skills and knowledge up to date; and
e. the lapse of time since erasure;

and then go on to determine whether restoration will meet the overarching objective considering any factors relevant to the original erasure and the new information.

81. The Tribunal also had regard to the case of *GMC v Chandra* [2018] EWCA Civ 1898, as to the test to be applied to the restoration of doctors to the Medical Register after a previous erasure decision. In *Chandra* the Court of Appeal found that there is no *"bright line"* between the test to be applied at the sanction stage and for restoration, although the weight given to different factors may change. The overall test must still be the overriding objective to protect, promote and maintain the health and safety of the public.

The Tribunal's Analysis of the Evidence and Findings

82. The Tribunal has considered each outstanding paragraph of the Statement of Case separately and has evaluated the evidence in order to make its findings.

83. The Tribunal has also considered the context within which Dr Grant admitted paragraph 4.

Paragraph 4

84. The Tribunal considered paragraph 4 of the Statement of Case that, during the Trust interview for the post of Consultant Endocrinologist and completion of a Declaration Form upon appointment, Dr Grant had misled the Trust as to the extent and seriousness of the allegations being investigated by the GMC. The Tribunal noted it was not alleged that Dr Grant had been dishonest, but that he had *"misled the Trust"*.

85. The Tribunal had regard to the relevant section within the Declaration Form, which reads as follows:

> *"Q7. Are you currently or have you ever been the subject of any investigation of fitness to practise proceedings by any licensing or regulatory body in the United Kingdom or in any other country?"*

86. Dr Grant ticked the *"Yes"* box. Within the text box, Dr Grant wrote:

> *"I have been subject to a GMC investigation following allegations relating to:*
> - *An unintentional breach of confidentiality of confidentiality (patient diagnosis);*
> - *Failure to obtain the correct governance approval relating to a service improvement project undertaken at King's College Hospital whilst a registrar in 2011;*
> - *Alleged publication malpractice relating to 2 papers (2011-2012)."*

87. The Tribunal had regard to the admissions made by Dr Grant to this paragraph of the Statement of Case. He stated that he admitted that he misled the Trust as to the extent and seriousness of the allegations. He referred to the information he had provided in the application form and that he was asked at interview to briefly summarise and state where the GMC investigation was at. Dr Grant stated that he had spoken of the fact that he knew that he had done wrong and was trying to learn from the matter. He stated that no follow up questions had been asked and the notes from the interview stated that he had been *"very upfront"*. Dr Grant stated in his witness statement, (which did not contain paragraph numbers):

> *"At the time of the interview, I had in my mind the accidental breach of confidentiality, as being the most embarrassing and negative current GMC complaint against me (this*

was subsequently dropped by the GMC when the allegations were further and better particularised later that year). I did not go into details about the publication related complaints other than saying that I had followed the processes wrongly and admitted wrongdoing in this area. I did not have in my mind at that time the details of every allegation in the investigation. I was not asked for any further information. In retrospect I should have gone into more detail and taken responsibility for giving more information. I recognise that I did not give the best indication of the extent of these matters, this was wrong of me, and I apologise. I had no deliberate or calculated intention to hide or conceal anything at the time as has been suggested. I recognise however in retrospect that I could and should have done better and therefore I misled the panel.

An interview situation is difficult and stressful at the best of times and the chair of the panel was keen to move things on and get through the other questions. I recognise that I should have volunteered more but was constrained by the quick-fire format of the interview and time pressures. In subsequent job applications and interviews I have made sure to always provide a copy or direct people to the MPTS website so that they can see the details of the charges and sanctions against me.

In previous job applications and interviews prior to May 2016, I had made a point of not only indicating on my application form that I was undergoing GMC investigation but also providing an accompanying letter. In terms of expectations, I had never previously been asked to provide copies of GMC correspondence at interview stage or outline all the details of an ongoing situation.

Comment has been made specifically about the forging of signatures on the copyright transfer form in 2011, perhaps the most salacious act of dishonesty. I did not have this in my mind at the time of interview and did not appreciate that this would be taken forward as a charge by the GMC all the way through to an MPTS hearing as it had previously been dealt with by my deanery some years previously whilst I was a trainee and I was advised by my legal team in early conversations that this would be subject to the 5 year rule and likely excised. Following this there have been no further episodes of publication misconduct or acts of such a nature."

88. Within Dr Grant's witness statement, he also stated that he had not discussed the seriousness of the allegations being investigated by the GMC during the interview. He stated that he did not appreciate what would happen following the investigation and the MPTS hearings. Dr Grant stated that his legal team had indicated that dishonesty was, understandably, taken very seriously by the GMC but had suggested he might receive a lesser

sanction given that the events had taken place when he was a junior doctor. He stated that, in reality, he thought he was naïve and had not really absorbed or accepted the seriousness of what he had done wrong or the potential ramifications. Dr Grant stated that being under GMC investigation over a long period of time was difficult and stressful and it was often not clear about what might happen. He stated that there were no specific intention or actions to limit discussion of the seriousness of the allegations at the time of interview.

89. Dr Grant also referred to a telephone conference which he had with his legal representative the day before the Trust interview. He stated that he remembered discussing the fact that he had an interview the following day and that he had made sure to declare the GMC investigation in his application. Dr Grant referred to the approach that had been advised, including to make sure he was open and upfront about the GMC investigation. He stated that it was his understanding that there wasn't a specific standard of disclosure that was universally applicable to all consultant interviews regarding GMC investigations, but there was some general guidance. Dr Grant referred to the Declaration Form he completed.

90. Dr Grant stated that Dr B was sent a copy of the Rule 8 GMC letter on 8 August 2016. He stated that the letter included a summary of the allegations and said that these were similar to the information he provided. Dr Grant stated that Dr B did not highlight any discrepancies between the information presented at interview - either at that time, or in other later meetings - and provided a positive testimonial in January 2017. Further, Dr B spoke to Dr Grant about applying for the position of clinical director, which he did and was successful in that appointment. A positive testimonial was also provided from Ms A in March 2017. Dr Grant stated that he had never denied the ongoing problems that he faced with the GMC or concealed anything.

91. However, the Tribunal noted Dr Grant's continuing position set out in his independently written statement in December 2023. This was a statement Dr Grant said he sent his solicitor around 12 December 2023, to review. The Tribunal found that likely it reflected his thoughts at that time, over seven years on from the event referred to.

> *"I had no deliberate or calculated intention to hide or conceal anything at the time as has been suggested."*

92. The Tribunal noted Dr B's evidence, one of the interviewing panel members, that he would not have supported Dr Grant's appointment had he known the full extent of the allegations, because doctors have to be trustworthy. Further, the Tribunal noted Mr G's, Head of Adult Services view, another member of the interview panel. It was written in the Trust Investigation report dated 28 June 2017, that Mr G had remarked that if Dr Grant had

provided the Trust with all the facts, that it would be a fair assumption that he would not have been supported in his appointment. Mr G said the panel had discussed at length the issues relating to the GMC and there was *"nothing to suggest he was a bad character or what the panel had heard. He was only being investigated for not following due diligence on a research project".*

93. The Tribunal did not accept Dr Grant's evidence that he had no deliberate or calculated intention to hide or conceal anything at the time. It found that he deliberately and knowingly withheld information from the interviewing panel, including that the Rule 7 letter contained allegations of dishonesty. The Tribunal found that Dr Grant withheld this information to further his career, in all likelihood knowing that he would be unlikely to be appointed if he was open and honest with the interviewing panel.

94. The Tribunal also noted that as late as March 2018, after the finding of impairment at the February 2018 panel, Dr Grant was still not being open and honest about his interview. He asserted at his appeal in relation to the disciplinary hearing that it had been assumed that his probity was impaired because it had been impaired in the past.

95. The appeal outcome letter dated 27 March 2018 states:

> *"you stated that you disclosed the information that was available to you at the time of your interview and subsequently and could only have done more by giving more regular updates to the organisation on the GMC process although there were delays in between those updates from the GMC to you."*
>
> *"In her response, [Ms A] stated that the panel's finding were that on balance you had more detailed knowledge about the GMC process that you disclosed to the organisation. They had reached that conclusion based on the fact that a letter had been sent to you by the GMC in March 2016 with detailed information about the allegations about you. The letter was received by your wife and solicitor at the time and you had acknowledged discussing the content of the letter with your solicitor sometime between the receipt of the letter and your interview with the Trust in May. You had also responded to the GMC about the letter a few days after your interview with the Trust in May. Their conclusion was therefore you had disclosed less detailed information during your appointment process with the Trust than was known by you. They found that it was reasonable to conclude that in a similar position, a reasonable individual would have found out the exact nature of the allegations against them and would have disclosed those to their future employer."*

96. The Tribunal concluded that Dr Grant continued to actively mislead those involved with formal inquiries and investigations and deflected blame on to colleagues whilst not being open and honest with them.

Paragraph 9

97. The Tribunal considered whether, on 25 September 2017, Dr Grant published an article on his publicly accessible LinkedIn account, which was contrary to his interim order of conditions as detailed in Schedule 1.

98. The Tribunal was provided with details of the LinkedIn activity which in the GMC's view amounted to the publishing of an article in breach of conditions. It read:

> *"September 25, 2017*
> *What criteria should we use for the Freestyle Libre? The Freestyle Libre system is a form of 'flash glucose monitoring' which differs from traditional finger-prick glucose testing. It consists of a..."*

99. The Tribunal had regard to Dr Grant's evidence bundle in which he provided a screenshot of the LinkedIn entry:

> *"50 years of finger pricking...*
>
> *Who qualifies?*
> *What criteria should we use for the Freestyle Libre?*
>
> *The Freestyle Libre system is a form of 'flash glucose monitoring' which differs from traditional finger-prick glucose testing. It consists of a small sensor attached to the upper arm which stays in position for 2 weeks at a time constantly measuring glucose levels in the body - it is read by the use of a Bluetooth connected handset which also doubles as a finger prick glucose and ketone testing meter.*
>
> *There are several patients already using and self-funding this technology. It has already pre-emptively explained to them that availability on the NHS will not automatically be taken for granted.*
>
> *Does anybody have local guidance or criteria as this looks like a big growth area in diabetes self management."*

100. The Tribunal was conscious that the burden lies with the GMC to prove this paragraph of the Statement of Case on the balance of probabilities. The Tribunal paid close attention to the content of the LinkedIn activity. The Tribunal noted that Dr B was concerned for the reputation of the Trust by this activity as professionals and the public alike can access LinkedIn.

101. The Tribunal had regard to Dr B's evidence, including the oral evidence he gave at the hearing. He stated that he remembered that the article was brought to his attention by other members of staff due to concerns about the reputation of the Trust, including that Dr Grant had used the title of *'Diabetes lead'* at the trust, which was a position he no longer held. The Tribunal understood Dr B's oral evidence to be that he had not followed the link to this post, but that he considered it was an article.

102. Within Dr Grant's witness statement from December 2023, he stated that he did not believe that the post was contrary to the condition at Schedule 1. He stated that his reading of the post was as a short call for information about an interesting subject. He stated:

> *"The first LinkedIn post about the flash glucose monitoring was something that I was professionally interested in and wanted to find out more about at the time (NHS guidance changed soon afterwards to allow the widespread availability of this new technology – but only along strict guidelines). The final line is 'Does anybody have local guidance or criteria as this looks like a big growth area in diabetes self-management', which is a question rather than any type of academic study. The post is asking a question rather than posing expert analysis or opinion. The second post contains a couple of questions to a professional network / demonstration of a desire to find out more about such populations..."*

103. The Tribunal accepted Dr Grant's explanation for why the wrong position was referred to; that he had failed to update his LinkedIn profile details. The Tribunal considered that Dr Grant could have exercised more care in the circumstances, particularly given the misuse of a professional title dealt with by the 2018 Tribunal. It did not consider there was sufficient evidence to infer from this, or that this added weight to the GMC's assertion, that Dr Grant had dishonestly published an article in breach of his conditions.

104. The Tribunal, taking the everyday understanding and meaning of *'article'*, concluded that Dr Grant's activity was no more than a *"post"* and did not contravene Dr Grant's interim order of conditions as specified at Schedule 1.

105. In the Tribunal's view, Dr Grant was canvassing opinion and inviting feedback rather than producing a written article. The Tribunal determined that it was not inappropriate for Dr Grant to pose such a question on social media to ask how others were producing guidance and what criteria they were using.

106. In all the circumstances, the Tribunal found paragraph 9 of the Statement of Case not proved.

Paragraph 10

107. The Tribunal has found paragraph 9 of the Statement of Case not proved. As such, paragraph 10 is not proved in its entirety.

Paragraph 11

108. The Tribunal has found paragraph 9 of the Statement of Case not proved. As such, paragraph 11 is not proved in its entirety.

Paragraph 13

109. The Tribunal has found paragraphs 9 to 11 of the Statement of Case not proved. As such, paragraph 13 is not proved in its entirety.

Paragraph 14

110. The Tribunal has found paragraphs 9 to 11 and 13 of the Statement of Case not proved. As such, paragraph 14 is not proved in its entirety.

Paragraph 17

111. The Tribunal considered whether Dr Grant knew that Ms A had withdrawn her testimonial.

112. Ms A had withdrawn her testimonial in a telephone conversation with Dr Grant's legal representative in August 2017. Dr B had been present on the call, but Dr Grant had not been. Ms A did not recall putting this withdrawal in writing to Dr Grant or his legal representative after the telephone call. Dr B did not withdraw his testimonial. Dr Grant subsequently submitted his response to the GMC Rule 7 letter on 14 November 2017 and included Ms A's testimonial in support.

113. The Tribunal had regard to Ms A's evidence that she did not tell Dr Grant personally that she had withdrawn her testimonial after this phone call. She told the Tribunal that she was trying to avoid coming across as *"gnarly"* towards Dr Grant.

114. Dr Grant had not provided any evidence from his former legal adviser to show that he had not been told Ms A had withdrawn her testimonial. However, it is not for Dr Grant to disprove the case, it is for the GMC to prove it.

115. The Tribunal noted that Ms A was the lead of the Trust's Maintaining High Professional Standards (MHPS) investigation that was ongoing into Dr Grant's conduct at that time. The Tribunal could well appreciate that, while it would certainly have been prudent and respectful for Dr Grant to have asked Ms A before re-using her testimonial, he may not have wanted to approach her whilst that investigation was ongoing.

116. The Tribunal had regard to Dr Grant's witness statement from December 2023, that:

> *"I wasn't aware that [Ms A] had withdrawn her testimonial. I had not been in direct contact with or spoken to [Ms A] for some months. We'd previously had a supportive and positive working relationship (hence the nice testimonial) and had written to the senior leadership team that she was keen to support me but since she became the case manager for my MHPS process we had not communicated. I hadn't been informed by her or by my solicitor about the conversation that they had had and that it had been withdrawn. I believe that I would have used this testimonial as a defensive quick-fire tool to try and show the GMC that my medical director had a good opinion of me and to try and deflect further accusations against me. I never got to the stage of using it as part of any MPTS proceedings.*
>
> *In retrospect I clearly should have asked [Ms A] if it would be acceptable to use her testimonial. I didn't think to do this at the time, and I was not aware that she had changed her mind. I would therefore like to take this opportunity to apologise for the inappropriate use of her testimonial and express my regret for doing this. I greatly respect [Ms A] and admired her as a helpful, supportive and kind medical director. It therefore fills me with sadness that I have had this negative impact on her and am sorry for how I went about doing what I did and not seeking permission."*

117. In all the circumstances, the Tribunal determined that there was insufficient evidence before it to show that more likely than not Dr Grant knew that Ms A had withdrawn her

testimonial as at the relevant time period. Accordingly, the Tribunal found paragraph 17 of the Statement of Case not proved.

Paragraph 18

118. The Tribunal has found paragraph 17 of the Statement of Case not proved. As such, paragraph 18 is not proved in its entirety.

The Tribunal's Overall Determination on the Statement of Case

119. The Tribunal has determined the Statement of Case as follows:

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

GMC Investigation

1. You were under investigation by the GMC and you were formally notified of the allegations being investigated:

a. by a letter from the GMC dated 2 March 2016 ('Rule 7 Letter');
Admitted and found proved

b. during a meeting with your legal team on 12 ~~March~~ May 2016.
Amended under Rule 17(6)
Admitted and found proved

2. On 13 May 2016 you were interviewed for the post of Consultant Endocrinologist at Sussex Community NHS Trust (the 'Trust').
Admitted and found proved

3. On 20 May 2016 you submitted a Declaration Form ('the Declaration Form') to the Trust upon your appointment as Consultant Endocrinologist at the Trust.
Admitted and found proved

4. During your actions at paragraph 2 and 3 above you misled the Trust as to the:

a. the extent of the allegations being investigated by the GMC;
Admitted and found proved

b. the seriousness of the allegations being investigated by the GMC.
Admitted and found proved

5. On 14 December 2017 during the Trust disciplinary hearing you alleged that you were not aware of the contents of the Rule 7 Letter at:

a. the time of your interview on 13 May 2016;
Admitted and found proved

b. when you submitted the Declaration Form;
Admitted and found proved

which was untrue by reason of paragraph 1.

6. You knew the information you gave during your disciplinary hearing was untrue.
Admitted and found proved

7. Your conduct at paragraph 5 was dishonest by reason of paragraph 6.
Admitted and found proved

Interim order of Conditions

8. On 7 April ~~2016~~ 2017 in your presence a Medical Practitioners Tribunal handed down an interim order of conditions restricting your medical practice, details of which can be found at Schedule 1.
Amended under Rule 17(6)
Admitted and found proved

9. On the dates set out in Schedule 2, you published an article~~s~~ on your publicly accessible LinkedIn Account, which was contrary to your interim order of condition detailed at Schedule 1.
Amended under Rule 17(6)
Not proved

10. You knew your conduct at paragraph 9 contravened the interim order of conditions.

Not proved

11. Your conduct at 9 was dishonest by reason of paragraph 10.
Not proved

Submissions to the Medical Practitioner's Tribunal

12. Between 13 March 2017 and 26 September 2017 through your legal representative you made assurances to the Medical Practitioner's Tribunal that you:

a. had ceased publishing papers; Admitted and found proved

b. would not be part of any publishing or editorial practice;
Admitted and found proved

13. When making these submissions you knew you had published papers on your LinkedIn Account which was available to the public. Not proved

14. Your conduct at paragraph 12 was dishonest by reason of paragraph 1
Not proved

Testimonial

15. In or around August 2017 Ms A notified your legal representative that she wished to withdraw her testimonial (the 'Testimonial').
Admitted and found proved

16. On 14 November 2017 in response to the GMC's disclosure under Rule 7 of the Fitness to Practise Rules you submitted your response and included the Testimonial in your support. Admitted and found proved

17. You knew the Testimonial had been withdrawn by Ms A.
Not proved

18. Your conduct at 16 was dishonest by reason of paragraph 17.
Not proved

The Tribunal's Decision

120. The Tribunal has considered the parties' submissions carefully and has evaluated the evidence in order to reach its decision as to whether Dr Grant is fit to practise.

121. Whilst the Tribunal was not required to make a finding in relation to misconduct, the new admitted allegations set out in the Statement of Case are serious. This includes misleading the Trust as to the extent and seriousness of the allegations being investigated by the GMC and Dr Grant's dishonest actions at the disciplinary hearing on 14 December 2017 in alleging that he did not know the contents of the Rule 7 letter at the interview or when signing the Declaration Form.

122. The Tribunal was of the view that the following paragraphs of *Good Medical Practice* (2013) ('GMP') were engaged in this case:

> *"65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*
>
> *71. You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.*
>
> *a. You must take reasonable steps to check the information is correct.*
>
> *b. You must not deliberately leave out relevant information.*
>
> *73. You must cooperate with formal inquiries and complaints procedures and must offer all relevant information while following the guidance in confidentiality."*

123. The Tribunal also had regard to the test in the case of *Grant*, as quoted in full above. It determined that in relation to the allegations made in the Statement of Case Dr Grant's conduct had engaged limbs b, c, and d of that test.

124. The Tribunal had regard to the concepts of insight and remediation. It considered that it was still possible for a doctor to return to practise even after serious dishonesty had been found. The Tribunal was conscious that, in serious cases, it may be harder for a doctor to demonstrate that they have remediated. The Tribunal referred to the relevant legal principles as set out above, including that the Tribunal should take into account Dr Grant'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.

125. The Tribunal reminded itself of C8 of the restoration guidance that "*having considered all the factors relevant to the original erasure and any new information, the tribunal should then take a step back and consider if the doctor is fit to practise and whether restoration is in line with the overarching objective, considering each of the three elements".*

The circumstances that led to disciplinary erasure

126. The Tribunal referred to the two previous MPT hearings in 2017 and 2018 where there were repeated findings of dishonesty and the Tribunal had concluded there was evidence of dishonesty over a six-to-seven-year period, which was self-serving and made to advance Dr Grant's career.

127. As detailed above, the 2017 Tribunal found proved a number of allegations relating to Dr Grant's research and publication work. This included that Dr Grant's actions had been misleading and/or dishonest in inappropriately providing acknowledgements to a fictitious person in journal papers on four occasions, submitting papers to journals in the knowledge that he had not made the changes required by his co-authors, and forging the signature of two of his co-authors.

128. The 2018 Tribunal found proved that Dr Grant inappropriately used the title Fellow of the Royal College of Physicians (FRCP) on his college and NHS email signatures, on his profile page on the Nuffield Health website, and in his signature on letters whilst working at the Trust - in the knowledge that Fellowship had not been awarded. It concluded that he did this to further his career to obtain the Editor-in-Chief role on the publication Clinical Medicine. Further he obtained practice privileges at the Nuffield by so doing.

Whether the doctor has demonstrated insight into the matters that led to erasure, taken responsibility for their actions, and actively addressed the findings about their behaviour or skills

129. The Tribunal took account of paragraph B6 of the guidance:

> *"It will be important for the MPT to assess whether the doctor has demonstrated insight into the findings that led to their erasure. It is crucial that a doctor has genuine insight into what went wrong and appreciates what could have been done differently. They should also understand how they could act differently in the future to avoid similar concerns occurring again."*

130. The Tribunal considered Dr Grant's progression in terms of the development of insight in relation to the matters dealt with at the 2017 and 2018 Tribunals. The 2017 Tribunal recorded that Dr Grant had done extensive remediation, completed a monthly reflective log, expressed remorse and shame, and had written that he was now a calmer and more relaxed person who could *'rise above temptation'* when it came to taking improper shortcuts. It stated:

> *"The Tribunal was of the view that your personal reflections demonstrate your insight has developed significantly since April this year. It considered that this, along with your assurances that you will no longer seek to be involved in publishing in medical journals, means that your risk of repetition of similar behaviour has decreased significantly and such a risk is now low."*

131. The conduct before the 2018 Tribunal related to a period from September 2016 to October 2017. That Tribunal found there to be extensive remediation, that Dr Grant had expressed remorse, and had provided a detailed personal reflective log. It stated:

> *"The tribunal gave consideration to your oral evidence before this tribunal at the facts stage. The tribunal took the view that you obfuscated when questioned about your actions and your demeanour, particularly when questioned by Ms Cundy, was aggressive. You showed no insight into your dishonest actions, nor their impact upon the reputation of the RCP or the medical profession as a whole. It concluded that your evidence was self-serving and dishonest."*

The 2018 Tribunal concluded that *"the risk of repetition is high".*

132. The Tribunal observes that the matters listed in the Statement of Case precede the 2018 hearing at which Dr Grant was erased. Had they been dealt with at that hearing, it is likely it would not have changed the overall outcome of erasure, but they are relevant in terms of Dr Grant's current fitness to practise.

133. The Tribunal had regard to Dr Grant's current evidence, including his witness statement of December 2023. It noted that Dr Grant had seen his solicitor the day before the interview with the Trust and had received advice that he should be honest and upfront about the GMC investigation. The Tribunal was unable to conclude that Dr Grant's actions in this respect had not been deliberate or calculated. It found that Dr Grant did conceal the extent and seriousness of the allegations that were being investigated by the GMC. The Tribunal felt that Dr Grant appeared to blame others for not asking him more direct questions at interview or as part of the HR process. He partially excused his behaviour because of the fast-paced

nature of the interview. He admitted dishonesty in relation to what he told the Trust during the disciplinary hearing.

134. The Tribunal's view was that Dr Grant denied the interviewing panel the opportunity to make an informed decision as to whether to employ him. Further, that if he had provided that information, it was unlikely that the panel would have recommended appointment. This Tribunal therefore took the view that he gained employment on false pretences, in a self-serving way to enhance his career. The 2018 Tribunal made similar findings. This Tribunal was unable to say with any degree of confidence that Dr Grant would not repeat similar actions again, if he felt he could get away with it.

135. In reaching its conclusion, the Tribunal noted that Dr Grant reassured the 2017 Tribunal in March, April and September 2017 and the 2018 Tribunal in February and May 2018 that he had remediated and there was no risk of repetition. However he was still maintaining at an appeal hearing, in March 2018, that he was not concealing anything and, in his December 2023 statement, he "*had no deliberate or calculated intention to hide or conceal anything at the time as has been suggested".*

136. The Tribunal has found Dr Grant to have been frank in his oral evidence at this hearing; he admitted what had gone on before. There was no aggression, as described by the previous Tribunal, and Dr Grant came across as open, contrite and self-deprecating. The Tribunal was of the view that Dr Grant did not hide away from the awkward questions and was able to display positive acceptance of his actions in most areas.

137. However, again, the Tribunal was conscious of the apparent insight that Dr Grant had told the 2017 and 2018 tribunals of and had been accepted, despite there being this other dishonesty. The Tribunal found that Dr Grant was able to demonstrate how he had worked to understand his personality and to address the ego that he had in respect of those previous actions. The Tribunal was also conscious that Dr Grant had told those previous MPTs that he had insight and was providing monthly reflective statements, including at a time when the investigation in relation to paragraphs 1 to 7 of the Statement of Case was ongoing. The Tribunal had questioned itself as to what was different on this occasion. Overall, the Tribunal found his insight to be evolving, but it could not be confident that it was full or complete. It had regard to the paragraph within the witness statement, and all of the allegations in relation to Dr Grant. There were some positives, but taken as a whole the Tribunal was cautious as to the insight shown by him.

<u>What the doctor has done since their name was erased from the register</u>

138. The Tribunal considered what Dr Grant had done since his name was erased from the Medical Register.

139. The Tribunal noted of all the new matters before it that Dr Grant did not admit, none of these were proved. The Tribunal took the view that the overall timeline of the dishonesty was from May 2016 up to the appeal hearing in March 2018. The Tribunal did not find parts of Dr Grant's evidence credible at this hearing.

140. The Tribunal took account of the steps taken by Dr Grant since the erasure decision. It was of the view that Dr Grant has taken considerable steps towards remediation. He has been working as a peer supporter for Doctors in Distress and has been volunteering with the Samaritans. Dr Grant has also been maintaining paid employment with Medefer, in a non-clinical role. Additionally he has been attending coaching/mentoring session with Dr D and undertaking reflective pastimes such as meditation. He has also passed an LLM Medical Law & Ethics course. The Tribunal also noted the extensive CPD completed by Dr Grant, the observer-ships undertaken, and his approach in being open and honest when turning down opportunities for editing/publishing. The Tribunal was impressed with the remedial steps taken.

<u>The steps the doctor has taken to keep their medical knowledge and skills up to date</u>

141. The Tribunal took account of paragraph B34 of the guidance:

> *"The longer the doctor has been away from clinical practice, the greater the likelihood that their knowledge and skills will have deteriorated to a degree that may place patients at risk. Tribunals should pay close regard to how the doctor has maintained their knowledge during a lengthy period away from the register."*

142. The Tribunal was clear that the matters before the MPTS had never related to concerns about Dr Grant's clinical ability. Prior to erasure, the evidence before the Tribunal showed that Dr Grant was a respected and competent clinician. It has also noted the extensive CPD that Dr Grant has completed in recent years, including observer-ships, and taking self-assessments of his clinical knowledge. The Tribunal determined that Dr Grant had done what he could, in the circumstances presented, to keep his medical knowledge and skills up to date.

<u>The lapse of time since erasure</u>

143. The Tribunal took account of paragraph B33 of the guidance:

"The length of time that has elapsed since the doctor was erased will be relevant although will not necessarily equate to them no longer posing a risk to patients or to public confidence in the profession."

144. The Tribunal noted that it has been over five years since Dr Grant practised. It had regard to his previous experience and the current updates in maintaining his medical knowledge and skills that Dr Grant has completed. The Tribunal noted the progress in terms of academic, clinical and communication skills that Dr Grant has clearly continued to work on in these intervening years.

Will restoration meet the overarching objective?

145. The Tribunal next had regard to the statutory overarching objective. In so doing, it performed a balancing exercise, weighing its findings above with its obligations under the individual limbs of the overarching objective which are:

a. To protect, promote and maintain the health, safety and well-being of the public;

b. To promote and maintain public confidence in the profession; and

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

146. The Tribunal had regard to the guidance, including paragraphs B42 and B47:

"B42. Where a doctor's past behaviour is so serious that it remains capable of undermining the trust that the public places in doctors, it is unlikely that restoration will be in line with the overarching objective. This applies to behaviour both inside and outside of a doctor's professional practice. There will be some cases where, even if insight and remediation have been fully demonstrated and there has been a significant lapse of time since erasure, public confidence in the profession would be undermined by allowing the doctor to practise again.

B47. Where there has been a very serious and/or persistent departure from the published standards resulting in erasure, it may not be consistent with the third element of the overarching objective to allow the doctor to practise again."

147. The Tribunal drew all of the various strands of its considerations together. The Tribunal has found that Dr Grant has taken steps to remediate his actions and has shown evolving, albeit not complete, insight. The Tribunal was clear that progress had been made by Dr Grant and this was to his credit.

148. However, the Tribunal determined that Dr Grant still had some way to go in terms of full remediation and insight. The Tribunal was also conscious of Dr Grant's fitness to practise history and the additional admitted matters that also include further dishonesty.

149. The Tribunal was of the view that, at this juncture, the degree of dishonesty was so wide and long lived that Dr Grant's fitness to practice is currently impaired. The Tribunal did not negate the various steps and endeavours undertaken by Dr Grant, and found the change in his oral evidence to be positive too, but the Tribunal was conscious of the ten year period during which Dr Grant had acted dishonestly. His actions had been persistent, repeated and prolonged. In conclusion, the Tribunal determined that progress had been made but that it was too soon for it to be able to say that Dr Grant had shown full insight or remediation and there remained a risk of repetition.

150. The Tribunal had regard to the comments of Mr G in respect of past allegations, and Dr B in terms of the additional concerns before this Tribunal. Both expressed that Dr Grant could not or would not have been employed given the alleged misconduct. The Tribunal found that there had been calculated and intended deception to gain a job, or the associated kudos or money, for self-advancement. The Tribunal also considered that a reasonable and well-informed member of the public would still have concerns taking into account the circumstances as a whole. The Tribunal also considered that a finding of current impairment was necessary to promote and maintain proper professional standards and conduct and that colleagues and professionals would regard his prolonged conduct as deplorable and incompatible with restoration at this time.

151. Accordingly, and with regard to all of the circumstances and evidence at this time, it determined that Dr Grant's name should not be restored to the Medical Register.

Dr Grant's right to make further applications for restorations

152. Dr Grant must automatically wait at least 12 months from the date of this restoration application before applying again. The Tribunal has no discretion to make this period longer or shorter unless the doctor has made two or more previous applications, which is not the case here.

ANNEX A - 29/01/2024

Application for the admission of further evidence & Consideration of Case Management Directions

153. Prior to the start of this hearing on 22 January 2024, the Tribunal had been provided with a hearing bundle of witness statements and documents from the GMC. It had also received Dr Grant's restoration application dated 29 December 2022. Neither the Tribunal nor the GMC had received any witness statements or associated documents on behalf of Dr Grant in support of his application.

154. Two pre-hearing meetings had been held with the parties by the MPTS Case Management team on 29 June 2023 and 8 November 2023. On each occasion Mr Carr attended the pre-hearing meeting on Dr Grant's behalf, with a copy of the directions being provided to Dr Grant afterwards. A written record of the two meetings was also made by MPTS staff and provided to the parties. The records also stated that if either party failed to comply with the case management directions then Rule 16A of the Rules would apply. Rule 16A relates to potential consequences of failure to comply with the Rules or case management directions, which includes that a Tribunal could *"refuse to admit evidence where the failure relates to the admissibility of that evidence"*.

155. The case management directions at the first pre-hearing meeting were for the GMC alone. By the time of the second meeting on 8 November 2023, GMC disclosure was complete and eight additional case management directions were made. The relevant directions included:

> 1) Dr Grant must, by 11/12/2023, disclose to the GMC:
> a) a signed witness statement from each factual witness (including themselves) upon whose evidence they intend to rely;
> (b) all reports and the CV of the expert(s) upon whose evidence they intend to rely;
> (c) any document relating to the allegation upon which they rely;
> (d) written confirmation of any admissions to the allegation.
>
> 4) Both parties must, by 08/01/2024, agree a final witness timetable indicating details of any representatives, the date, method and estimated duration of each witness' evidence. The timetable is to be supplied electronically by the GMC to the MPTS by the date shown so it may be read by the Tribunal in advance of the

hearing. Parties must ensure that all witnesses are timetabled so as to best achieve effective and efficient use of the Tribunal's time.

5) GMC must, by 13/11/2023, provide Dr Grant's representatives with a draft bundle index listing the documents and witness statements required by the GMC and understood to be required by Dr Grant (to the extent Dr Grant's position is known as at the date shown). If the GMC proposes to redact documents or witness statements, the extent of those redactions must be identified.

6) Dr Grant must, by 11/12/2023, provide the GMC with any comments on the draft hearing bundle, including any additions, redactions or removals requested. Where comments include requests for documents to be added, copies of those documents must be provided to the GMC if not already disclosed.

7) Both parties must prepare paginated and indexed joint hearing bundles, to be ready for submission to the MPTS by 08/01/2024. All hearing bundles must be supplied electronically by the GMC to the MPTS by the date shown date so that they may be read by the Tribunal in advance of the hearing.

8) Both parties must, by 03/01/2024, confirm in writing to the Case Manager whether they:
(a) Have each complied with the case management directions given which fall due prior to that date;
(b) Believe the current listing length remains adequate or requires adjustment.

156. At the start of this restoration hearing, Mr Carr, on Dr Grant's behalf, raised a preliminary application for the admission of further evidence as follows:

- An evidence bundle of 72 pages;
- A restoration bundle of 169 pages, including Dr Grant's two witness statements, three reflection documents and documents regarding coaching work and CPD;
- An 18 page bundle with a number of references/testimonials on behalf of Dr Grant.

157. Dr Grant's undated statement had been sent to the GMC on the morning of the first day of this hearing and the rest of the above documentation was provided to the GMC during the course of that day.

158. Following GMC consideration, at the end of the first day, the Tribunal was provided with the evidence bundle and the witness statement of Dr Grant. The full restoration bundle, and then the references bundle, were provided to the Tribunal the following day.

159. The GMC had timetabled two witnesses to give evidence on the first and second day of this hearing, and Mr Walker, GMC Counsel, intended to make opening submissions before the first witness was called at 13:30 on the first day.

Submissions

Submissions on behalf of Dr Grant

160. Mr Carr stated that the infrastructure of his firm had been managed and operated by a company called CTS, which was a global service. He stated that CTS had been the subject of a cyber attack on 21 November 2023 and, as a result, everyone at Burton Copeland had been unable to access their case management systems.

161. Mr Carr stated that he was currently operating two email inboxes, the previous one that had limited functionality, and a new one which only had functionality going back to late December 2023.

162. Mr Carr stated that he and Dr Grant had been working on documentation for this hearing for a long time and that, while there was a considerable amount of documentation to provide, he had been trying to get these documents to his PA so that she could prepare a paginated and indexed bundle. He stated that sometimes the documents would disappear within one or more of his email inboxes.

163. Mr Carr stated that he acknowledged the case management directions and had attempted to comply with them at all times. Mr Carr accepted on behalf of Dr Grant that directions 1, 4, 6,7 and 8 had not been complied with.

164. In response to a question from the Tribunal, Mr Carr stated that - with regard to direction 8 - he had not informed the MPTS Case Manager, as required, that the case management directions had not been complied with.

165. In terms of the application for the admission of further evidence, Mr Carr submitted that the test was whether it was fair to Dr Grant. He referred to Mr Walker's comments and the pragmatic view that the GMC was taking that this hearing should still go ahead, if possible. Mr Carr stated that the GMC would clearly have welcomed the earlier disclosure of

the documents. He referred to the cyber attack and the attempts that had been made by the management team at his firm to return to functioning systems. Mr Carr stated that he had tried to do the best that he could in a very difficult position and has had a full caseload of other work. He also stated that he had kept the GMC informed as to progress and made contact with Mr Walker the previous Friday.

166. In response to a question from the Tribunal, Mr Carr stated that Dr Grant sent his draft witness statement through shortly after the 11 December 2023 deadline and referred to the three reflective statements. He stated that the problems lay at his door and that he had done all that he could to get matter up and running to commence on the second day of the hearing. He said he had been trying to work as efficiently as possible with the limitations that occurred as a result of the cyber-attack and that he would have complied with the directions otherwise. Mr Carr also stated that he thought that the hearing could still conclude in the available time and referred to a number of admissions that Dr Grant would be making to the Statement of Case.

167. Mr Carr submitted that the Tribunal had a very wide discretion in relation to the admission of evidence and that it would be unjust and unfair not to admit it.

Submissions on behalf of the GMC

168. Mr Walker stated that there was obvious frustration as to the late provision of the documentation on behalf of Dr Grant. He stated that he was taking a practical and positive approach and that the GMC was taking a pragmatic view in terms of this additional material and the way forward.

169. Mr Walker stated that it was important that time was provided to ensure the material referred to in Dr Grant's witness statement could be interrogated, particularly if questions were to be put to the GMC witnesses on the basis of any of that material. Mr Walker stated that each witness would need opportunity to read any additional documentation that was relevant to their evidence. He also confirmed the general availability of both GMC witnesses and indicated that it would still be possible to hear their evidence despite the delay.
Mr Walker stated that the GMC was concerned to get the witness evidence heard rather than trying to relist witness evidence for later on this year as it had not been easy.

Tribunal's Decision

170. The Tribunal had regard to the submissions of the parties, all of the documentation, and to Rule 34(1) of the Rules, which states:

"The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law."

171. The Tribunal was clear that a key part of the case management process and the issuing of case management directions was to ensure the efficient progress of the case and that there is no unfairness to either party. The Tribunal also had regard to Rule 16A of the Rules and the potential consequences of failure to comply with case management directions.

172. The Tribunal noted that Dr Grant had not disclosed a signed witness statement or some of the accompanying documentation to the GMC by 11 December 2023. As such, the GMC was not able to include this documentation in the draft hearing bundle it provided to Dr Grant's legal representatives by the required date of 13 December 2023. If the documentation had been provided at this point, even allowing for a short extension that could have been sought, then the Tribunal would have been able to read this documentation in advance of the start of this hearing. Instead the Tribunal was required to spend time reading during the first two days of the hearing.

173. The case management directions set out that both parties had to confirm in writing, by 3 January 2024, to the MPTS Case Manager that they had complied with the case management directions which fell due prior that date. Mr Carr acknowledged to the Tribunal that he had not informed the MPTS Case Manager that the case management directions had not been complied with.

174. The Tribunal noted Mr Carr's submissions as to the cyber-attack. It was unclear why Mr Carr had not informed the MPTS Case Manager about the lack of compliance with the directions and why this matter could not have been resolved prior to the start of this hearing. It had removed time for the GMC to follow up on any part of the further information that they may have wished to do and meant hearing time was spent reading or waiting for documentation.

175. As such, the Tribunal was considering whether or not it was fair and relevant to admit this further evidence on behalf of Dr Grant, including within the context of the failures to comply with the case management directions. This hearing is to consider Dr Grant's restoration application, where the onus is on him to satisfy the Tribunal that he is fit to return to unrestricted practise, and so evidence from Dr Grant is very important.

176. The Tribunal has noted the GMC's pragmatic view and the submissions from Mr Carr about the difficulties that he has experienced complying with directions. The Tribunal concluded that Dr Grant's evidence was relevant and having regard to the circumstances which led or contributed to the directions not being complied with, it was fair to allow it to be included.

177. The Tribunal granted Dr Grant's application for the admission of the further evidence.

178. The Tribunal asked itself whether it could still deliver a fair hearing with the admission of this evidence at a late stage. It noted that the GMC has indicated that it did not think it would be prejudiced by the late admission of new evidence. The Tribunal also noted that Mr Carr could have indicated to the MPTS that the hearing was not ready to proceed by 3 January 2024 as required.

179. The Tribunal had regard to the options before it, including that it could draw an adverse inference, adjourn the matter, or proceed allowing the evidence to be admitted and try to get this hearing back on track. The Tribunal considered that this was a difficult balance but felt the balance was to be exercised in favour of the doctor, given the pragmatic view taken by the GMC. On balance, the Tribunal determined that it could fairly continue with this hearing. The Tribunal concluded that it could continue and proceed in a fair and expeditious way despite the unnotified breaches of the directions.

ANNEX B - 29/01/2024

Application to amend the Statement of Case

180. On 22 January 2024 Mr Walker made an application under Rule 17(6) of the Rules, which states:

> *"Where, at any time, it appears to the Medical Practitioners Tribunal that—*
> *(a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended; and*
> *(b) the amendment can be made without injustice,*
> *it may, after hearing the parties, amend the allegation in appropriate terms."*

181. Mr Walker asked for the amendment of the dates at paragraphs 1(b) and 8 of the Statement of Case document. He submitted that, for accuracy, the date at paragraph 1(b)

should read “May” instead of “March” and the date at paragraph 8 should read “2017” instead of “2016”.

182. On 23 January 2024 Mr Walker made an additional application to amend paragraph 9 and Schedule 2 of the statement of case. He stated that the date of the second article was 16 November 2017 but that the interim order of conditions referred to at paragraph 9 had ceased to take effect as the suspension was then in place. Mr Walker stated that reference to this article should be removed from the Statement of Case as it would, as a matter of logic, be wrong for the GMC to try and level this criticism against Dr Grant.

183. Mr Carr, on behalf of Dr Grant, confirmed that there were no objections to the proposed amendments.

Tribunal’s Decision

184. The Tribunal had regard to the proposed amendments, the submissions made by both parties, and the relevant legal principles.

185. The Tribunal noted that the amendments proposed were to correct inaccuracies in the dates and to remove reference to an article that was outside the relevant time of the interim order of conditions.

186. The Tribunal determined to grant the GMC’s application for the amendment of the Statement of Case in the manner proposed by Mr Walker. It concluded that it would be fair and appropriate to make the amendments and that they could be made without injustice to either party.

SCHEDULE 1

4 You must not participate in, or supervise, any medical research, clinical study, service evaluation, clinical audit or otherwise be involved in drafting, preparing, editing or submitting articles or presentations for dissemination or publication.

SCHEDULE 2

~~November 16, 2017~~
~~'Does the Amish gene protect against Diabetes'.~~
Amended under Rule 17(6)

September 25, 2017
'What criteria should we use for the Freestyle Libre? '