

## PUBLIC RECORD

Dates: 12/02/2024 - 15/02/2024

Medical Practitioner's name: Dr Paul WINWRIGHT  
GMC reference number: 6167415  
Primary medical qualification: BM 2008 University of Southampton

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

## Summary of outcome

Erasure  
Immediate order imposed

## Tribunal:

Legally Qualified Chair	Mrs Becky Miller
Lay Tribunal Member:	Mr Rob McKeon
Medical Tribunal Member:	Dr Janet Nicholls
Tribunal Clerk:	Mr John Poole

## Attendance and Representation:

Medical Practitioner:	Not present, not represented
GMC Representative:	Mr Nigel Grundy, Counsel

## Attendance of Press / Public

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

### Overarching Objective

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

### Determination on Facts and Impairment - 14/02/2024

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

### Facts

#### Background

2. Dr Winwright qualified in 2008 from the University of Southampton and went on to train in anaesthetics. At the time of the events that have given rise to this hearing, Dr Winwright was a registrar in anaesthetics at Southampton General Hospital ('the Hospital').

3. Dr Winwright's hearing pertains to an Allegation of impairment by reason of misconduct XXX and criminal convictions. However, his case originally related to misconduct only. The misconduct matters were first listed to be heard by a Medical Practitioners Tribunal (MPT) in May 2020 but this was adjourned due to the events relating to the Covid-19 pandemic. The hearing was re-listed for May 2021 but was adjourned due to XXX. Thereafter, the misconduct XXX elements were listed to be heard by an MPT in October 2022 but that was adjourned as Dr Winwright was at that time facing criminal charges. Following subsequent criminal convictions, the GMC made a successful joinder application so that the misconduct XXX and convictions allegations could be considered at this hearing together.

4. In summary, the misconduct matters relate to an allegation that on four occasions between January 2019 and February 2021, Dr Winwright inappropriately obtained and self-administered a drug from hospital stock.

5. XXX

6. The conviction matters relate to Dr Winwright being convicted of various criminal offences, including driving whilst under the influence of drugs, stealing a drug and medical equipment from the NHS, engaging in controlling/ coercive behaviour and XXX.

### The Outcome of Applications Made during the Facts Stage

7. The Tribunal refused a written application made by Mr Anthony Haycroft, Counsel, on behalf of Dr Winwright, for the entirety of the hearing to be held in private in accordance with Rule 41XXX of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'). The Tribunal's full decision on the application is included at Annex A.

8. The Tribunal granted an application made by Mr Nigel Grundy, Counsel, on behalf of the GMC, to proceed in the absence of Dr Winwright in accordance with Rule 31 of the Rules. The Tribunal's full decision on the application is included at Annex B.

9. The Tribunal granted an application made by the GMC to amend the Allegation in accordance with Rule 17(6) of the Rules. The Tribunal's full decision on the application is included at Annex C.

### The Allegation and the Doctor's Response

10. The Allegation made against Dr Winwright is as follows:

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

1. On or around 27 January 2019 whilst on duty you inappropriately:
  - a. obtained the drug set out at Schedule 1 (the 'Drug') from hospital stock; **Admitted and found proved**
  - b. self-administered the Drug. **Admitted and found proved**
2. On 30 January 2019 whilst on duty you inappropriately:
  - a. obtained the Drug from hospital stock; **Admitted and found proved**
  - b. self-administered the Drug. **Admitted and found proved**
3. On 8 January 2021 whilst on duty you inappropriately:
  - a. obtained the Drug from hospital stock; **Admitted and found proved**
  - b. self-administered the Drug. **Admitted and found proved**
4. On or around 2-3 February 2021 you inappropriately:
  - a. obtained the Drug from hospital stock; **Admitted and found proved**
  - b. removed the Drug from hospital premises; **Admitted and found proved**

- c. self-administered the Drug whilst in control of a motor vehicle. **Admitted and found proved**
5. XXX
6. XXX
7. On 5 January 2023 at North Hampshire Magistrates' Court you were:
  - a. convicted in that on 29/06/2022 at Winchester, Hampshire, you drove a mechanically propelled vehicle, namely XXX, on a road, namely the A34 northbound, whilst unfit to drive through drugs, contrary to section 4(1) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988; **Admitted and found proved**
  - b. sentenced to:
    - i) a fine of £120; **Admitted and found proved**
    - ii) a driving disqualification 12 months. **Admitted and found proved**
- ~~8. On 21 September 2023 at Southampton Crown Court you were convicted of the following offences:~~
  - ~~a. engage in controlling/coercive behaviour XXX;~~
  - ~~b. XXX;~~
  - ~~c. theft by an employee;~~
  - ~~d. burglary other than dwelling.~~
8. On 25 January 2023 at Southampton Magistrates Court you were convicted in that between 01/04/2021 and 29/06/2022 at Southampton stole XXX, of a value unknown, belonging to the National Health Service. **Admitted and found proved**  
**Amended in accordance with Rule 17(6)**
- ~~9. On 23 November 2023 you were sentenced to:~~
  - ~~a. 30 months imprisonment;~~
  - ~~b. Restraining Order for 5 years.~~
9. On 21 September 2023 at Southampton Magistrates Court you were convicted in that on 30/09/2022 at Southampton General Hospital, Southampton, you having entered as a trespasser a building, namely Southampton General Hospital, stole therein XXX and medical equipment of a value unknown. **Admitted and found proved**  
**Amended in accordance with Rule 17(6)**

10. On 18 October 2023 at Southampton Crown Court you were convicted of the following offences:
- a. engage in controlling/coercive behaviour XXX between 1 March 2021 and 9 June 2022; Admitted and found proved
  - b. XXX. Admitted and found proved

**Amended in accordance with Rule 17(6)**

11. On 23 November 2023 you were sentenced to:
- a. 30 months imprisonment; Admitted and found proved
  - b. Restraining Order for 5 years. Admitted and found proved

**Amended in accordance with Rule 17(6)**

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

- a. misconduct in respect of paragraphs 1 – 4; **To be determined**
- b. XXX
- c. conviction in respect of paragraphs 7-9. **To be determined**

### **The Admitted Facts**

11. At the outset of these proceedings, via his witness statements, Dr Winwright made admissions to the entirety of the Allegation in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

### **Impairment**

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

### **Witness Evidence**

13. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:
- Dr C, a Consultant Cardiac Surgeon at the University Hospital Southampton, witness statement dated 24 January 2020

- Dr D, Senior Fellow in Cardiac Intensive Care Medicine at the University Hospital Southampton, witness statement dated 25 January 2020
- Dr E, Clinical Fellow at the Hospital at the time of the incident in question, witness statement dated 28 January 2020
- Dr F, Consultant Anaesthetist at the Hospital, witness statement dated 25 May 2021
- Mr G, Senior Operating Department Practitioner at the Hospital, witness statement dated 4 June 2021
- Mr H, Team Leader for Anaesthetics at the Hospital, witness statement dated 8 June 2021
- Mr I, Head of Employee Relations at the Hospital, witness statement dated 7 January 2022.

14. Dr Wainwright provided three witness statements, dated 3 November 2020, 5 April 2022 and 9 February 2024. His first statement addressed his recollection of the events taking place on 27 January 2019 and 30 January 2019. His second statement addressed the events surrounding 8 January 2021 and 2-3 February 2021, and his third statement addressed the criminal offences he was convicted of.

XXX

15. XXX

### Documentary Evidence

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

- Trust investigation interviews and statements
- Dr Winwright's self referrals to the GMC
- Certificate of conviction for driving whilst unfit, 5 January 2023
- Statement of PC J, 30 June 2022
- Certificate of conviction for further four offences, 5 January 2024
- Pre-Sentence Report, 22 November 2023
- Sentencing Remarks, 23 November 2023
- Email from Police confirming dates of offences, 27 February 2023
- CV and reflections exhibited to Dr Winwright's first statement
- Reflections exhibited to Dr Winwright's second statement
- XXX
- XXX
- XXX
- XXX
- XXX
- XXX

### Tribunal's determination on Impairment

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

### **GMC Submissions**

18. On behalf of the GMC, Mr Grundy submitted that Dr Winwright's misconduct was serious and included the repeated abuse of his position as a doctor. He submitted that along with Dr Winwright's criminal convictions, there had been a clear breach of paragraphs 1 and 65 of Good medical practice (2013 edition)('GMP').

19. XXX

20. Mr Grundy submitted that Dr Winwright's remediation is of less relevance in this case. He stressed the impact that the convictions have on public confidence in the medical profession. He submitted that the offence of coercive control committed over a long period of time may be viewed as abhorrent. XXX. In addition, Mr Grundy submitted that Dr Winwright has not demonstrated any remorse for his actions.

21. Accordingly, Mr Grundy invited the Tribunal to find that Dr Winwright's fitness to practise is impaired.

### **The Relevant Legal Principles**

22. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

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

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

25. In its deliberations, the Tribunal had regard to the questions posed by Dame Janet Smith in the Fifth Shipman Report, as referred to in the case of *CHRE v NMC and 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.”*

### **The Tribunal’s Determination on Impairment**

26. The Tribunal considered whether the facts found proved at paragraphs 1 – 4 of the Allegation amounted to misconduct.

27. It was found that on four occasions, whilst on duty, Dr Winwright inappropriately obtained the Drug from hospital stock and self-administered it. On the last occasion in February 2021, he not only obtained the Drug from hospital stock but removed it from the hospital premises and self-administered it while in control of a motor vehicle.

28. The Tribunal was satisfied that Dr Winwright’s actions fell so far short of the standards expected of reasonable and competent doctor so as to amount to misconduct. It also considered that his actions would be considered deplorable by fellow practitioners. His behaviour had the potential to put patients and colleagues at risk as he was on duty at the material time. Similarly, by self-administering the Drug whilst in control of a motor vehicle, he posed a real risk to the lives of other road users.

29. The Tribunal considered that the misconduct was serious. It also considered the nature of the criminal convictions to be particularly serious and that these demonstrated an escalation of behaviour. The Tribunal agreed with Mr Grundy’s submission that paragraphs 1 and 65 of GMP are engaged in this case:

*‘1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*

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



### Impairment

30. The Tribunal considered that all four limbs of the test in *Grant* are engaged in this case. Namely, Dr Winwright has in the past acted so as to put patients at unwarranted risk of harm; brought the medical profession into disrepute; breached the fundamental tenets of the medical profession and acted dishonestly. Moreover, the Tribunal considered that given the lack of any meaningful insight and remediation, Dr Winwright is liable in the future to repeat similar behaviour should he find himself in similar circumstances.

31. The Tribunal determined that Dr Winwright's fitness to practise is impaired by reason of misconduct.

32. XXX

33. With regard to the convictions, the Tribunal reminded itself of the serious nature and circumstances surrounding the criminal offences and that Dr Winwright is still serving a custodial sentence. It also bore in mind the sentencing Judge's observations that Dr Winwright's coercive and controlling behaviours occurred when he was not under the influence of the Drug:

*'I am not persuaded that there is a direct link between your use of XXX and your conduct, your coercive and controlling conduct towards (name 1). It seems to me that there are numerous examples, there is no suggestion that you had taken XXX at or around that time although you may well have been under pressure, although you may well have XXX, it is difficult to see how that can be a justification for threatening XXX with a knife, for holding her head down XXX, for saying things that quite clearly were designed to put her in fear and so I do not accept that there is such a direct link.'*

34. As such, the Tribunal considered that XXX provided little, if any, mitigation to the seriousness of the conviction. Moreover, the Tribunal considered that Dr Winwright has shown limited insight into the impact his criminal conviction for coercive controlling behaviour and XXX and the wider public as highlighted within the recent pre-sentence report:

*'He demonstrates some regret and remorse for his behaviour, but continues to justify some of his behaviour towards XXX.'*

In the Judge's sentencing remarks he stated:

*'The Pre-Sentence Report comes to various conclusions as to your history and what remorse you show but it is significant that, throughout the Pre-Sentence Report, you say in effect: "The jury were wrong, I was only joking around." You are not accepting that you are guilty of these offences and it seems to me that you do not demonstrate remorse and your attitude, again, does not demonstrate a realistic prospect of rehabilitation excepting that you did address XXX but otherwise, your behaviour*

*towards (name 1) does not indicate that you accept that you have behaved in that way at all.'*

35. Accordingly, the Tribunal determined that Dr Winwright's fitness to practise is impaired by reason of his conviction.

36. In conclusion the Tribunal determined that Dr Winwright's fitness to practise is impaired by reason of misconduct XXX and conviction. It determined that a finding of impairment was necessary to protect and promote the health, safety and wellbeing of the public, promote and maintain public confidence in the medical profession, and promote and maintain proper professional standards and conduct for the members of the profession.

#### **Determination on Sanction - 15/02/2024**

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

#### **The Evidence**

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

#### **GMC Submissions**

39. On behalf of the GMC, Mr Grundy outlined the approach the Tribunal must follow. He submitted that the reason for imposing sanctions is to protect the public as encapsulated in the three limbs of the overarching objective. He reiterated the principle of proportionality and that sanctions are not imposed to punish or discipline doctors. He also submitted that the reputation of the profession as a whole is more important than the interests of any individual doctor.

40. Mr Grundy submitted that the Tribunal must consider the mitigating and aggravating factors in this case. He reminded the Tribunal of its finding that in relation to the serious offence of coercive control, there had been no direct link to XXX.

41. Mr Grundy referred the Tribunal to the guidance in the Sanctions Guidance (2024 edition) (SG) XXX linked to misconduct or criminal offences, and highlighted the guidance in relation to dishonesty.

42. Mr Grundy submitted that there are no exceptional circumstances which would justify taking no action.

43. Mr Grundy submitted that the matters are so serious that a sanction of conditions would not be warranted, and they would not be workable.

44. Mr Grundy submitted that suspension would not be the proportionate or appropriate sanction. He observed that the SG advises that suspension might be appropriate in cases where the conduct found is serious but falls short of being fundamentally incompatible with continued registration. He submitted that Dr Winwright's conduct is fundamentally incompatible with continued registration.

45. Mr Grundy observed that all four limbs of the *Grant* test were found to be engaged in this case and that the Tribunal found that Dr Winwright was liable in future to repeat similar behaviour should he find himself in similar circumstances. He further noted that the Tribunal had found that there was a lack of any meaningful insight and remediation in this case.

46. Mr Grundy referred the Tribunal to the paragraphs of the SG which advise when erasure might be the appropriate sanction, in particular paragraph 108 and paragraph 109a,b,d,g,h and j. He submitted that these paragraphs of the SG were engaged in this case, and that the only proportionate and appropriate sanction was one of erasure.

### **The Relevant Legal Principles**

47. The decision as to the appropriate sanction to impose, if any, is a matter for the Tribunal exercising its own judgement.

48. The Tribunal must bear in mind that the main reason for imposing a sanction is to protect the public and its purpose is not to punish, although it may have a punitive effect. The Tribunal should consider proportionality, by weighing the public interest against the interests of the doctor, but bear in mind that the reputation of the profession as a whole is more important than the interests of any individual doctor. The Tribunal must also consider the overarching objective as a whole and should not give excessive weight to any one limb.

49. The Tribunal should take into account any mitigating and aggravating factors and weigh them up accordingly, considering these in conjunction with the statutory overarching objective.

50. The Tribunal should consider the least restrictive sanction first before moving on to consider the other available sanctions in ascending order of severity.

### **The Tribunal's Determination on Sanction**

51. Before considering what, if any, action to take in respect of Dr Winwright's registration, the Tribunal considered any mitigating and aggravating factors in his case.

52. The Tribunal identified the following mitigating factors:

- Dr Winwright referred himself to the GMC and made full admissions to the Allegation.
- XXX
- Dr Winwright has offered an apology and shown regret in regard to the misconduct and some of the convictions, albeit he has not yet had the resolve to successfully remedy his conduct.
- There have been no previous regulatory findings against Dr Winwright.

53. The Tribunal identified the following aggravating factors:

- Dr Winwright’s lack of insight. The Tribunal considered that Dr Winwright had shown little insight into the misconduct and the risk of taking the Drug whilst on duty, driving or with XXX. The Tribunal also considered that there was little insight into his convictions in respect of his behaviour towards XXX and the impact on them. Further, Dr Winwright has failed to recognise the impact of his misconduct and convictions on others and the public’s confidence in the profession.
- Dr Winwright’s conduct occurred and escalated over a significant period.
- Dr Winwright abused his professional position.

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

*56 Tribunals are also likely to take more serious action where certain conduct arises in a doctor’s personal life, such as*

*a) issues relating to probity – ie being honest and trustworthy and acting with integrity*

*..  
XXX*

### **No action**

55. The Tribunal first considered whether to conclude the case by taking no action. It bore in mind that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. It considered that there were no exceptional circumstances. The Tribunal determined that it would be wholly inappropriate to take no action given the seriousness of its findings and that to do so would fail to uphold the overarching objective.

### **Conditions**

56. The Tribunal next considered whether to impose conditions on Dr Winwright’s registration. It bore in mind that any conditions imposed would need to be appropriate, proportionate, workable, and measurable.

57. The Tribunal bore in mind that conditions may be appropriate in XXX. However, given the serious nature of the misconduct and convictions, the Tribunal determined that conditions would be wholly inappropriate and would not satisfy the public interest or uphold or maintain public confidence in the profession.

### Suspension

58. The Tribunal went on to consider whether it would be appropriate and proportionate to suspend Dr Winwright's registration.

59. The Tribunal had regard to paragraphs 91 - 93 of the SG which provide that:

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

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

*93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions..'*

60. The Tribunal bore in mind that suspension has a deterrent effect and can be used to send out a signal. However, it is only appropriate where the conduct is serious but not fundamentally incompatible with continued registration, and where the tribunal is satisfied that the behaviour is unlikely to be repeated.

61. The Tribunal reminded itself of the nature of the misconduct and conviction in Dr Winwright's case and his lack of insight and remediation. Dr Winwright demonstrated an entrenched pattern of behaviour which escalated over time despite help being available to him. It eventually culminated in a significant custodial sentence of 30 months. The Tribunal considered that his conduct was so serious as to be fundamentally incompatible with continued registration. It therefore determined that suspension would not be appropriate and would fail to uphold the overarching objective.

### Erasure

62. The Tribunal therefore went on to consider the sanction of erasure.

63. The Tribunal agreed with Mr Grundy's submission that paragraph 108 and paragraph 109a,b,d,g,h and j were engaged in this case:

*108 Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.*

*109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).*

*a A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.*

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

...

*d Abuse of position/trust (see Good medical practice, paragraph 65: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession')*

..

*g Offences involving violence.*

*h Dishonesty, especially where persistent and/or covered up...*

..

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

64. The Tribunal therefore directs that Dr Winwright's name be erased from the Medical Register. It concluded that erasure was the only appropriate and proportionate sanction which would sufficiently and adequately meet the overarching objective, which is to protect and promote the health, safety and wellbeing of the public; maintain public confidence in the

medical profession; and to uphold proper professional standards and conduct for members of the profession.

#### Determination on Immediate Order - 15/02/2024

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

#### Submissions

66. On behalf of the GMC, Mr Grundy submitted that an immediate order was necessary and that the interim order should be revoked.

67. Mr Grundy referred the Tribunal to the relevant paragraphs of the SG to consider in relation to immediate orders, including paragraphs 172, 173 and 178:

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

*173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.*

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

68. Mr Grundy submitted that the fact Dr Winwright is in prison and will not be released for another ten months or so, is not a relevant factor. He reminded the Tribunal that if Dr Winwright were to appeal, the substantive order would not come into effect and when released from prison he would be free to practice in an unrestricted manner.

#### The Tribunal's Determination

69. The Tribunal had regard to the relevant paragraphs of the SG from 172 – 178.
70. The Tribunal considered that given the seriousness of its findings and that it had found that Dr Winwright’s conduct was fundamentally incompatible with continued registration and that there is a risk of repetition, an immediate order of suspension is necessary in the public interest and to uphold public confidence in the profession.
71. This means that Dr Winwright’s registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.
72. The interim order will be revoked when the immediate order takes effect.
73. That concludes the case.



ANNEX A – 12/02/2024

**Application for the hearing to be held in private**

Submissions on behalf of Dr Winwright

74. On behalf of Dr Winwright, Mr Anthony Haycroft, Counsel, provided a written application for the entirety of the hearing to be held in private pursuant to Rule 41XXX of the General Medical Council (Fitness to Practise) Rules Order of Council 2004.

75. Mr Haycroft submitted that by Rule 41(2) of the Rules *“the particular circumstances of the case outweigh the public interest in holding the hearing in public.”* XXX.

76. Mr Haycroft, in writing, submitted that the allegations, all of which are admitted, include criminal convictions which are already in the public domain. However, he submitted that the following factors outweigh the public interest in a public hearing:

- (1) The main allegations directly relate to XXX;
- (2) XXX
- (3) The hearing is being conducted remotely and so it is unlikely in any event that any member of the public would be in attendance and so potentially excluded;
- (4) The hearing could, in theory, be conducted in a public/private hybrid way. In reality, however, the Tribunal will be assisted by not having to go into and out of private repeatedly and may fall into unwitting error especially without a doctor’s representative present to monitor the position;
- (5) So far as the criminal convictions are concerned, it could be said that these and their sentences have satisfied the public interest in large measure;
- (6) The doctor has been identified in prison as a doctor by a number of his fellow inmates which makes him a target within the prison. His fears have been heightened by someone in the prison having their throat slashed in the prison last week.
- (7) When the Tribunal come to draft their Determinations, appropriate public and private versions could be drafted to satisfy the public interest and hence the public will be aware of appropriate public matters and the risk of making private matters of XXX public is averted.

GMC submissions

77. Mr Grundy opposed the application for the entirety of the hearing to be heard in private but did not object to XXX being heard in private.

78. XXX

79. Mr Grundy submitted that it was also relevant that all of the criminal proceedings were held in public, not just the coercive control and XXX elements but also relating to the theft of the Drug and the burglary at the hospital on the night which led to the XXX. He submitted that these were all matters that were held in public and that there is no good reason why this hearing should not also be heard in public.

80. Mr Grundy submitted that there is a general rule that all hearings should be in public and that it is in the public interest to hear matters in public, especially serious matters such as in this case which involved criminal convictions. He reminded the Tribunal that it can properly sit in private in relation to the specific matters dealing with XXX and the GMC do not object to these matters being heard in private.

### The Tribunal's Approach

81. The Tribunal considered the written submissions made by Mr Haycroft and the oral submissions made by Mr Grundy.

82. The Tribunal bore in mind Rule 41 of the Rules which states:

#### **41.**

*(1) Subject to paragraphs (2) to (6) below, hearings before the Committee and a Medical Practitioners Tribunal shall be held in public.*

*(2) The Committee or Medical Practitioners Tribunal may determine that the public shall be excluded from the proceedings or any part of the proceedings, where they consider that the particular circumstances of the case outweigh the public interest in holding the hearing in public.*

*(3) Subject to paragraphs (4) to (6), the Committee or a Tribunal shall sit in private, where they are considering-*

- (a) whether to make or review an interim order; or*
- (b) the physical or mental health of the practitioner.*

*(4) Where it is considering an allegation or a non-compliance matter, the Medical Practitioners Tribunal may revoke an interim order in public.*

*(5) A Tribunal shall, where it is considering matters under paragraph (3)(a), sit in public where the practitioner requests it to do so.*

*(6) Subject to paragraph (5), the Committee or Tribunal may, where they are considering matters under paragraph (3)(a) or (b), hold a hearing in public where they consider that to do so would be appropriate, having regard to-*

- (a) the interests of the maker of the allegation (if any); (b) the interests of any patient concerned;*
- (c) whether a public hearing would adversely affect the health of the practitioner; and*
- (d) all the circumstances, including the public interest.*

83. The Tribunal balanced Dr Winwright’s interests with the public interest in deciding whether the hearing should be held in private, noting that the presumptive position is that a hearing will be heard in public.

84. The LQC reminded the Tribunal that it must consider Dr Winwright’s right to a fair trial under Article 6 of the Convention of Human Rights and balance the Doctor’s rights with those of the public and whether it is in the public interest to hear the entire matter in public. The Tribunal was mindful that parts of the substantive hearing will be heard in private, in accordance with Rule 41XXX.

### The Tribunal’s Decision

85. XXX

86. The Tribunal considered that there was a strong public interest in hearing the matters relating to the misconduct and convictions in public. It was also mindful that there is no evidence that hearing these matters in public would likely have a detrimental effect on XXX. Nor is there any evidence that hearing these matters in public will hamper or undermine the quality of evidence to be received as no witnesses are being called.

87. In the circumstances the Tribunal determined to refuse the application for the hearing to be heard entirely in private. It considered that the public interest outweighed Dr Winwright’s interest.

88. XXX.

## ANNEX B – 12/02/2024

### Determination on service and proceeding in Dr Winwright’s absence

#### Service

89. Dr Winwright was neither present nor represented at this hearing but he had been represented previously. The Tribunal therefore considered whether notice of this hearing had been properly served in accordance with Rules 15 and 40 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 ('the Rules') and paragraph 8 of the Schedule 4 to the Medical Act 1983.

90. The Tribunal was provided with a proof of service bundle. This showed that the notice of allegation and notice of hearing was sent to Dr Winwright's representatives in accordance with the Rules.

91. On behalf of the GMC, Mr Grundy observed that Dr Winwright's representatives at DAC Beachcroft Solicitors had confirmed that Dr Winwright was aware of the hearing. Further, even though Dr Winwright was in prison, he had spoken to his legal representative and was aware he could apply to the prison to attend this hearing, but did not wish to do that nor instruct solicitors to attend on his behalf.

92. Mr Grundy also drew the Tribunal's attention to an email from DAC Beachcroft on 9 February 2024 to the MPTS in which they clarified that '*neither Dr Winwright or any any defence legal representatives will be attending the hearing.*'

93. Mr Grundy invited the Tribunal to find that there had been good service and that the doctor is aware of today's hearing.

94. Having considered the documentation, the Tribunal was satisfied that all reasonable steps had been made to serve the notice of this hearing in accordance with Rules 15 and 40 and Dr Winwright was aware of the hearing today.

#### Proceeding in absence

95. Having determined that notice of this hearing had been properly served, the Tribunal went on to consider whether it would be appropriate to proceed with the hearing in Dr Winwright's absence in accordance with Rule 31 of the Rules. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor and the fairness to the doctor, with the wider public interest, including the need to protect patients.

96. Mr Grundy invited the Tribunal to proceed in Dr Winwright's absence. In his submissions, he reminded the Tribunal of the relevant authorities of *GMC v Adeogba [2006]* *EWCA Civ 162* and *Visvardis*.

97. Mr Grundy submitted that in considering whether to proceed in Dr Winwright's absence, the Tribunal must consider fairness to the doctor and the GMC, as well as the public interest.

98. Mr Grundy highlighted Dr Winwright’s witness statement dated 9 February 2024 in which he stated:

*‘... Whilst no disrespect is intended to the Tribunal, I will not be attending the Medical Practitioners Tribunal Service Hearing on 12 February 2024. XXX. I accept that these proceedings are not a mechanism to rewrite the outcome of the criminal trial, but I nevertheless wish to provide my comments upon the convictions, and have done so in the paragraphs below. I will await the outcome of the hearing, and will respect any decision made by the Tribunal in my absence. I invite the Tribunal to take into account this and my other two statements and give such weight to them as they consider fit...’*

99. Mr Grundy submitted that in the circumstances it was fair to proceed in the absence of Dr Winwright.

100. Mr Haycroft, in writing, submitted that Dr Winwright was not attending the hearing as XXX.

101. Mr Haycroft confirmed that Dr Winwright did not seek any adjournment of the hearing and would welcome it proceeding as this matter has been “hanging over his head” for some time now.

102. The LQC reminded the Tribunal of the guidance provided by Sir Brian Leveson in *Adeogba* in which he highlighted the difference between criminal trials and disciplinary hearings. The latter must be guided by the overarching statutory objective. He said that the fair, economical, expeditious and efficient disposal of allegations is of very real importance. It would run entirely counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner could effectively frustrate the process and challenge a refusal to adjourn when that practitioner had deliberately failed to engage in the process. The LQC advised that in this case, Dr Winwright had not failed to engage and has set out very clearly in his witness statements his reasons for not attending. The LQC advised that Sir Leveson said that where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed.

103. The Tribunal was satisfied that Dr Winwright was aware of today’s hearing and has voluntarily waived his right to attend. He has not sought an adjournment of the hearing and there is no evidence that a short adjournment would secure his attendance at a later date. Indeed the Tribunal reminded itself of Mr Haycroft’s confirmation that *‘Dr Winwright did not seek any adjournment of the hearing and would welcome it proceeding as this matter has been “hanging over his head” for some time now.’*

104. Accordingly, the Tribunal determined that it was fair to proceed in Dr Winwright’s absence in accordance with Rule 31 of the Rules.

ANNEX C – 12/02/2024

### Application to amend the Allegation

105. Mr Grundy made an application to amend the allegation in accordance with Rule 17(6) of the Rules which provides that:

**17.**

*(6) 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.*

106. In support of the application, Mr Grundy provided the Tribunal with a copy of an updated Allegation reflecting the proposed amendments

107. In summary, Mr Grundy submitted that the original paragraph 8 of the Allegation should be removed and replaced with new paragraphs 8, 9 and 10, and that the original paragraph 9 should be renumbered as paragraph 11.

108. Mr Grundy submitted that the amended paragraphs would accurately reflect the information and dates on the certificates of conviction. He added that in relation to the new paragraph 10, the date of 18 October 2023 had been given to the GMC by Dr Winwright’s representatives as being the correct date of the trial and when the Jury returned its verdict.

109. Mr Grundy submitted that the application was essentially a ‘tidying up’ exercise. He submitted the proposed amendments confirm what Dr Winwright has already admitted to. As such, he submitted that the amendments can be made without injustice to Dr Winwright.

110. Mr Grundy referred the Tribunal to an email sent by the Doctor’s representatives suggesting that the Allegation needed to accurately reflect the dates of conviction and confirming their agreement to waiving the normal 28 day notification period.

### The Tribunal’s decision

111. The LQC reminded the Tribunal that Rule 17(6) of the Rules allows for it make amendments to the allegation, providing that no injustice is caused.

112. The Tribunal considered the evidence and the correspondence between the GMC and the Doctor’s representatives.

113. The Tribunal considered that the amendments would properly reflect the evidence, the matters that Dr Winwright had already admitted to, and it was satisfied that the

amendments could be made without injustice to Dr Winwright as the substance of the Allegation has not changed.

114. Accordingly, the Tribunal granted Mr Grundy's application in its entirety.

Schedule 1

XXX