

## PUBLIC RECORD

Dates: 15/04/2024 - 26/04/2024

Medical Practitioner's name: Dr Priyanka RAI  
GMC reference number: 7724943  
Primary medical qualification: Magister (Physician) 2019 Medical University Pleven

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

**Summary of outcome**

Suspension, 9 months  
Review hearing directed  
Immediate order imposed

**Tribunal:**

Legally Qualified Chair	Ms Angela Georgiou
Lay Tribunal Member:	Mr Tim Skelton
Medical Tribunal Member:	Dr Anup Singh
Tribunal Clerk:	Ms Ciara Fogarty

**Attendance and Representation:**

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Ms Rebecca Harris, Counsel, instructed by MDU
GMC Representative:	Ms Elizabeth Dudley-Jones, 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 - 24/04/2024

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

## Background

2. Dr Rai qualified in 2019 and prior to the events which are the subject of the hearing Dr Rai was a foundation fellow at Southampton General Hospital in trauma and orthopaedics. At the time of the events Dr Rai was practising as a Speciality Doctor at The Cygnet Hospital, Maidstone.

3. The allegation that has led to Dr Rai's hearing can be summarised as follows. Dr Rai created two false accounts in Portfolio Online in the names of Dr A and Dr B and used the false accounts to complete Workplace Based Assessments and a Supervisor Report on herself. Further, it is alleged that Dr Rai completed Multi-source Feedback ('MSF') in Portfolio Online via nomination links that had been sent to email addresses which she herself had created and which she therefore knew were not genuine. Finally, it is alleged that Dr Rai created a membership number in Dr B's name and used that, and the email address she had earlier created in the name of Dr B, to communicate with Bettison.org, purporting to be Dr B.

## Further Background

4. Bettison.org is an IT company that administers Portfolio Online, a portal used by trainee psychiatrists for their e-portfolios. On 14 July 2022 Mr E, Project Officer at Bettison.org, began to suspect that one psychiatric trainee, Dr Rai, may be assessing herself by submitting workplace based assessments ('WPBA') and mini PATs purporting to be other people. Mr E was also concerned that Dr Rai appeared to have created two fake supervisor accounts, and used those accounts to submit assessments for herself.

5. Mr E was first contacted by email by Dr Rai on 29 June 2022. Dr Rai had asked if two WPBA assessment dates which she had completed in her e-portfolio could be deleted as she had entered the wrong assessment dates. Mr E emailed back the same day, just 20 minutes after Dr Rai's original email, indicating that the correct process would be to change the dates on the entries if the dates were incorrect, rather than delete the assessment. He asked Dr Rai to confirm the name of the trainee who had completed the assessments and the correct dates on which they had been completed, at that time believing that he was communicating with a supervisor and not a trainee. Later that evening, Mr E received another email from Dr Rai confirming that the assessments were in relation to her own portfolio. Within that email Dr Rai confirmed that one assessment needed to be backdated from 2 June 2022 to 2 June 2021, and the other from 26 May 2022 to 26 May 2020.

6. On 30 June 2022, Mr E emailed Dr Rai to inform her that they could not amend assessment information at the request of the trainee and required Dr Rai's assessor to contact them directly. Dr Rai acknowledged this email on 1 July 2022 and stated that she had asked her supervisor to contact Bettison.org. In his witness statement dated 9 January 2023, Mr E states he thought it was odd that Dr Rai would seek to have an assessment in her portfolio from two years ago as it was rare that assessments could be completed accurately more than 28 days after the encounter had taken place, and rare for a trainee to seek to have such an old assessment in their portfolio.

7. On 14 July 2022 Mr E received an email which purported to be from Dr Rai's assessor, Dr B, using the email address XXX. The email was sent to the support email address and requested that the date of an assessment (CT/1 CP: Case Presentation on Personality Disorders and the available management options for Personality Disorders) completed on Dr Rai's portfolio be changed from 2 June 2022 to 2 June 2021. Mr E's suspicions were raised as this was an unusual request, so he responded to that email the same day, requesting Dr B's RCPsych membership number. RCPsych membership numbers are not publicly available and so Mr E wanted to use this number to prove whether the account was genuinely Dr B. The following day, 15 July 2022, he received an email purporting to be from Dr B, providing her RCPsych membership number. Later that day, Mr E contacted the Royal College membership team. He provided the RCPsych membership number which the purported supervisor had provided, and asked them to check it against their system. Mr E was informed that Dr B was registered under that registration number, but the account had only been made one hour before his call. There had been no payment for the account so it was a pre membership registration. Mr E considered this to be suspicious, and so he decided to investigate further.

8. Mr E searched for '[Dr B]' in Portfolio Online and found there were 4 accounts under this name, set out in the screenshot at exhibit XXX3. The account listed on the first row was linked to an NHS email address and had not been logged into for years, so to him was not

suspicious. The account on the second row was linked to a Hotmail address and had been used to complete assessments for a number of trainees and had a Royal College membership number listed. The account on the third row had been created using the email address XXX but the account was blank apart from Dr B's name. The account on the fourth row used the email address XXX and had only completed assessments for Dr Rai. This was also the account which had been used to contact him on 15 July 2022. Mr E felt it was very suspicious that the assessor would use a new account and email and then backdate assessments, rather than use their usual account.

9. Mr E then reviewed Dr Rai's portfolio. In addition to the two workplace based assessments there was a mini PAT (a peer assessment tool) in the portfolio. This is a requirement for psychiatry trainees which allows for confidential feedback to be given to the trainee by their peers. He noted that within the mini PAT every email address used to give feedback to Dr Rai was a private outlook email address; there were no trust email addresses, NHS addresses or emails from other work places. Mr E found this very odd, stating that it does not happen with a normal Portfolio Online account. Also the trainee had received an unusually high response rate – with 8 out of 9 assessors providing feedback. Dr Rai was rated highly in the mini PAT, scoring higher than other trainees in her area. Mr E checked with colleagues at Bettison.org and they confirmed that all of the responded to the mini-PAT had been received within a short period of time, about 20 minutes, seemingly using the same IP address.

10. Mr E was suspicious so on 28 July 2022 he decided to inform Person F, Director of Professional Standards at RCPsych, of his concerns that Dr Rai was assessing herself for both the WPBA and mini-PAT. Within his email he mentioned that Dr Rai on the face of it had created at least two fake supervisor accounts. In addition to the additional accounts for Dr B, whilst reviewing her portfolio, he noted the portfolio contained an assessment from Dr A which also appeared suspicious. On investigating the accounts created with Portfolio Online under Dr A's name, Mr E noted that one account under Dr A's name had completed assessments for a number of trainees. The second account under Dr A's name had only completed assessments on Dr Rai's portfolio. There were 10 assessments completed for dates between 2020 and 2022. Mr E noted the email address used for the first and second account under Dr A's name had very similar addresses but with two letters swapped. The address Mr E believed to be genuine used the address XXX. However the second account, which he believed was created by Dr Rai, was XXX. This account was created at the same time as the suspicious account created using Dr B's name.

11. Mr E's last contact with Dr Rai was on 11 August 2022, when Dr Rai emailed Mr E purporting to be Dr B, chasing up her earlier request to change the dates on the assessments. Given the investigations which were already in hand, Mr E did not respond to this email.

12. Dr B is a consultant community psychiatrist working in general adult psychiatry for Berkshire NHS Foundation Trust. Dr B had been Dr Rai's clinical supervisor when Dr Rai was working at Prospect Park Hospital on a fixed term locum contract as a foundation level doctor between March and August 2021, although Dr B went on XXX leave on 19 July 2021. It is accepted that Dr Rai's attendance at work during this locum contract was low due to XXX at the time XXX Dr Rai herself accepts that *"...owing to XXX, I had not worked for much of 2021..."*

13. On 19 July 2021 Dr B went off on XXX leave. Whilst she was off, she received sporadic messages from Dr Rai asking her if she would be a referee for her applications to a new job and to complete an assessment for her e-portfolio. Given how limited her contact had been with Dr Rai during the time she had worked at the Trust, Dr B did not think it was appropriate to act as her referee or assessor for the purpose of e-portfolio assessments. Accordingly Dr B did not respond to Dr Rai's text messages, which were sent on 29 November 2021, 20 January 2022, 24 January 2022 and 23 September 2023.

14. On 1 September 2022, Dr B received an email from Dr G, Associate Dean for Curricula at the Royal College of Psychiatrists, about Dr Rai. Dr G's email explained that Dr Rai's profile had been flagged by Bettison.org as having anomalies, and he asked Dr B a series of questions about Dr Rai and her role in assessing her portfolio, including setting up a new Portfolio Online account, obtaining a new RCPsych membership number and communicating with Portfolio Online about Dr Rai's portfolio. Dr B responded the same day to confirm that whilst she had worked with Dr Rai, she had not set up a second Portfolio Online account, did not obtain a new membership number, had not used a different email address and had not sent any emails regarding Dr Rai to RCPsych / Portfolio Online.

15. During correspondence Dr B raised a number of concerns around how and when her name had been used, what communications the College had received in her name from anyone other than her, the use of email addresses other than her registered email, how the College had treated this communication, whether the College responded to the fraudulent contact as if it were in fact Dr B, whether a second profile was created in her name, whether a new membership number was generated for herself, what raised suspicions and what was the process of managing those suspicions until Dr B had been contacted about the issue. It is apparent that Dr B was very concerned about what she had been told about the fraudulent use of her name and identity, and she decided to refer Dr Rai to the GMC herself.

16. Dr A is a Consultant Adult Psychiatrist working for Tees, Esk and Wear Valleys NHS Trust. She was Dr Rai's clinical supervisor when Dr Rai worked as a core trainee in psychiatry at the Trust between 1 April 2020 and 5 August 2020. Dr A confirms that during this time she

completed six activities on Dr Rai's portfolio, all of which were completed before she left the Trust. On 11 November 2021, Dr A received a request by email for her to complete an educational supervisor report for Dr Rai's ARCP. Dr A decided not to complete this, as she felt that it was inappropriate given that she had not been Dr Rai's clinical supervisor in over a year, and never her educational supervisor. On 21 November 2021, Dr A received a request by email from Dr Rai to complete multi-source feedback about her. Dr A felt that this was a little strange given the time which had elapsed since they had worked together, but she completed it in good faith. Dr A confirms that, other than the two instances in November 2021, she has not spoken to or corresponded with Dr Rai since she left the Trust in August 2020. Dr A's witness statement confirms that she has never used the email account XXX and has not completed any of the 10 supervision activities in Dr Rai's Portfolio Online account as listed in exhibit XXX1.

17. On 16 September 2022, the Royal College formally wrote to the GMC regarding Dr Rai.

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

18. The Tribunal agreed, in accordance with Rule 41 of the Rules, that this hearing should be heard partly in private as some of the matters under consideration relate to XXX.

#### The Allegation and the Doctor's Response

19. The Allegations made against Dr Rai are as follows:

1. You operated an account in Portfolio Online ('the First Account') in your name using the email address set out in Schedule 1. ***Admitted and found proved***
2. On 26 May 2022 at 7:16 pm an account was created in Portfolio Online ('the Second Account') using:
  - a. Dr A's name; ***Admitted and found proved***
  - b. the email address as set in Schedule 2. ***Admitted and found proved***
3. You knew the Second Account had not been created by Dr A. ***Admitted and found proved***
4. On 26 May 2022 at 10:49 pm an account was created in Portfolio Online ('the Third Account') using:
  - a. Dr B's name; ***Admitted and found proved***

- b. the email address as set out in Schedule 3. ***Admitted and found proved***
- 5. You knew the Third Account had not been created by Dr B. ***Admitted and found proved***

Workplace Based Assessments ('WPBAs') and Supervisor Reports

- 6. You used the Second Account to complete WPBAs in Portfolio Online as set out in Schedule 4 in relation to the First Account. ***Admitted and found proved***
- 7. Your actions at paragraph 6 were dishonest as you:
  - a. knew the Second Account to be false; ***Admitted and found proved***
  - b. purported to be the person named at paragraph 2.a. ***Admitted and found proved***
- 8. You used the Second Account to complete a Supervisor Report on 12 March 2021, in relation to the First Account. ***Admitted and found proved***
- 9. Your actions at paragraph 8 were dishonest as you:
  - a. knew the Second Account to be false; ***Admitted and found proved***
  - b. purported to be the person named at paragraph 2a. ***Admitted and found proved***
- 10. You used the Third Account to complete WPBAs in Portfolio Online as set out in Schedule 5 in relation to the First Account. ***Admitted and found proved***
- 11. Your actions at paragraph 10 were dishonest as you:
  - a. knew the Third Account to be false; ***Admitted and found proved***
  - b. purported to be the person named at paragraph 4.a. ***Admitted and found proved***

Multi-source Feedback ('MSF')

- 12. On or around 2 June 2022 via Portfolio Online you requested that nomination links for MSF be sent to the email addresses described in:
  - a. Schedule 6; ***Admitted and found proved***
  - b. Schedule 7. ***Admitted and found proved***

13. On 2 June 2022 you completed MSF in Portfolio Online from the email addresses described in Schedule 6 using the nomination links. ***Admitted and found proved***
14. You knew that:
  - a. the email addresses were not genuine email address in the names of the individuals they purported to belong to; ***Admitted and found proved***
  - b. the information provided in the MSF was untrue. ***Admitted and found proved***
15. Your actions at paragraph 12.a and 13 were dishonest by reason of paragraph 14. ***Admitted and found proved***
16. You intended to complete the MSF from an email address similar to the email address described at Schedule 7. ***Admitted and found proved***
17. Your actions at paragraph 12.b and 16 were dishonest by reason of paragraph 14.a. ***Admitted and found proved***

Royal College of Psychiatrists

18. On or around 15 July 2022 a new membership account/number was created with the Royal College of Psychiatrists ('the RCP Account') using:
  - a. Dr B's name; ***Admitted and found proved***
  - b. the email address at set out in Schedule 3. ***Admitted and found proved***
19. You knew the RCP account had not been created by Dr B. ***Admitted and found proved***
20. You communicated with Bettison.org using the Third Account on the following occasions:
  - a. 14 July 2022; ***Admitted and found proved***
  - b. 15 July 2022; ***Admitted and found proved***
  - c. 11 August 2022. ***Admitted and found proved***
21. Your actions at paragraph 20 were dishonest as you purported to be the person named at paragraph 4.a. ***Admitted and found proved***



22. Your actions as described at paragraph 20 were intended to cover up your actions described at paragraph 10. ***Admitted and found proved***

XXX

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

- a. misconduct in relation to paragraphs 1-22. ***To be determined***

XXX

### **The Admitted Facts**

20. At the outset of these proceedings, through her Counsel Ms Rebecca Harris, Dr Rai admitted the factual Allegations, as set out in paragraphs 1 to 24 above, in their entirety, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced that the admitted facts had been found proved.

### **Impairment**

21. 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 Rai's fitness to practise is impaired by reason of misconduct XXX.

### **The Evidence**

22. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows.

23. On behalf of the GMC from the following witnesses:

- Dr C, XXX, via video link
- Professor D, XXX, via video link

24. Dr Rai provided her own witness statement dated 30 January and also gave oral evidence at the hearing. Given her full admission to the allegations, Dr Rai's evidence largely focused on her reflections on her misconduct XXX.

In addition, the Tribunal received evidence from the following witness on Dr Rai's behalf:

- Dr I, XXX, via video link

25. The Tribunal had regard to the documentary evidence provided. This included, but was not limited to:

- Witness statement of Dr B dated 7 December 2022
- Witness statement of Mr E dated 9 January 2023
- Witness statement of Person J dated 24 January 2023
- Witness statement of Dr A dated 9 February 2023
- Witness statement of Person K dated 17 October 2023
- XXX
- XXX
- XXX
- Completion of CPD certificates dated various
- Colleague feedback
- Appraisal Completed dated 27 March 2023
- XXX

26. The Tribunal also received a Stage 2 bundle of documents which included testimonials, documents relating to Dr Rai's remediation and reflection, documents from Dr L (Dr Rai's most recent clinical supervisor), further letters relating to XXX and her GMC Rule 7 response dated 5 July 2023, all of which they have read.

## Submissions

27. On behalf of the GMC, Ms Elizabeth Dudley-Jones submitted that Dr Rai's fitness to practice was impaired by both her misconduct XXX.

28. Ms Dudley-Jones first reminded the Tribunal of the relevant case law regarding impairment, including *R (on the application of Calhaem) v. General Medical Council [2007] EWHC 2606 (Admin)*, *Roylance (no 2) v GMC [2000] AC 311, PC page 331C*, *Nandi v GMC [2004] EWHC 2317 (Admin)*, *Cheatle v GMC [2009] EWHC 645 (Admin)*, *Council for Healthcare Regulatory Excellence v NMC and Grant [2011] EWHC 927*.

29. Ms Dudley-Jones submitted that Dr Rai's admitted conduct constitutes serious misconduct. Ms Dudley-Jones reminded the Tribunal that the period of initial conduct relates to events in late May 2022 into early June 2022, however Dr Rai's conduct continued into June and then into July and August 2022. Ms Dudley-Jones submitted that Dr Rai's conduct

was deliberate misconduct which spanned over 4 months. She submitted it involved very serious misconduct in that Dr Rai created not one but two false email addresses for her former clinical supervisors from two separate Trusts. She set up and created fictitious accounts for those doctors in the Royal College of Psychiatrist's Portfolio Online system. She submitted that the creation of the two separate emails for the respective doctors was sophisticated and clever and thus somewhat devious in that they looked strikingly like the genuine email addresses the supervisors had or might have had. Thereafter having created those emails and the fake online accounts, Dr Rai used the two respective accounts to complete and create false WPBA's about herself and formally submit those clinical assessments of her own clinical competence. Those assessments were detailed and largely false, albeit some of them were based on actual events that Dr Rai had been involved in. Ms Dudley-Jones submitted that Dr Rai's actions involved a number of different bodies, one of whom was her own professional body. Her actions involved dishonesties which were sophisticated, carefully crafted, pre-meditated, pre-planned and orchestrated.

30. Ms Dudley-Jones submitted that Dr Rai's conduct had an impact on her former clinical supervisor Dr B (a consultant community psychiatrist) noting that she was concerned that she had been impersonated and her identity used for Dr Rai's own benefit. Ms Dudley-Jones submitted that it was clear from Dr B's referral of Dr Rai to the GMC, just how concerned she was about Dr Rai using her name and pretending to be her; to the extent of Dr Rai creating a false email address and the fact that she had used it for "official purposes" as she puts it in her "dealings with other bodies". Ms Dudley-Jones submitted Dr Rai's actions were calculated. She submitted that given the proven allegations, Dr Rai's actions can therefore be properly categorised as sustained, purposeful behaviour spanning four months from May to August 2022.

31. Ms Dudley-Jones submitted that Dr Rai has admitted that her actions in writing to Bettison.org and trying to change the dates on her clinical assessments and purporting to be Dr B (both in name and in obtaining a new membership number for the Royal College), were actions intended to cover up her earlier dishonest actions in respect of her submissions of WPBA's.

32. Ms Dudley-Jones submitted Dr Rai's various actions therefore do demonstrate a number of clear and serious breaches of Good Medical Practice (2013) ('GMP'). She submitted Dr Rai had breached a number of significant aspects of GMP and referred the Tribunal to paragraphs 1, 14, 65, 66 and also possibly paragraph 71, depending on the Tribunal's view. She submitted that Dr Rai's actions therefore seriously undermine public confidence in the profession, had plainly brought the profession into disrepute and breached one of the fundamental tenets of the profession. She reminded the Tribunal that serious non-clinical misconduct is not easily remediable.

33. XXX

34. XXX

35. Ms Dudley-Jones invited the Tribunal to consider Dr Rai's motive for doing what she did, her understanding of the appraisal process, the importance of the appraisal process, whether her understanding was accurate; the views of her clinical appraisers and whether she could/should have asked for reports at earlier stages. She invited the Tribunal to consider whether Dr Rai could have legitimately put together CBD's at the time or indeed at a later stage, whether her beliefs were appropriately held, and whether there were alternative options available to her. She asked the Tribunal to consider whether Dr Rai could have postponed the appraisal itself (and inform her employers about XXX), inform her support network and whether she could have sought help (but did not), and the circumstances surrounding the misconduct (her location, her support network, her family, XXX. Ms Dudley-Jones asked the Tribunal to consider whether Dr Rai knew what she was doing was wrong at the time, whether she had set on a course and continued despite the fears of being caught out, whether she panicked that she had been found out, whether her continued actions in June/July/August were part of the same course or were actually different.

36. Therefore, in all the circumstances of this case, Ms Dudley-Jones submitted that this is one of those cases where Dr Rai's misconduct is so serious and consists of violating such fundamental rules of the profession that a finding of impairment of fitness to practise is justified on the grounds that it is necessary to reaffirm clear standards of professional conduct so as to maintain public confidence in the profession. Ms Dudley-Jones argued that the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.

37. Ms Dudley-Jones submitted that Dr Rai's fitness to practice is therefore undoubtedly currently impaired because of XXX her misconduct XXX.

38. On behalf of Dr Rai, Ms Harris, Counsel, reminded the Tribunal that misconduct is a matter for the Tribunal's judgment; the burden and standard of proof do not apply after the fact-finding stage. She reminded the Tribunal that in order to make a finding of misconduct, it must determine that the facts found proved are a serious departure from the standards of conduct expected from a practitioner (*Doughty v General Dental Council [1988]*).

39. Ms Harris submitted that Dr Rai does not suggest that the facts admitted and found proved do not amount to misconduct, but she submitted that Dr Rai’s behaviour should be seen in the context of XXX at the time it took place.

40. Ms Harris acknowledged that certain types of misconduct are often considered as not so easily remedied e.g. dishonesty and sexual behaviour. In this case however, because there is evidence XXX, Dr Rai’s behaviour and the surrounding circumstances are capable of remediation eventually. Firstly, her dishonest behaviour is capable of remedy by the work and impressive reflection that she has already done over a considerable period of time. Secondly, her behaviour is also capable of remedy, XXX.

41. Ms Harris referred the Tribunal to the case of *In Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council, Paula Grant [2011]* in which Cox J stated as follows (paragraphs 74-75):

*a. “74. In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances [my emphasis].*

42. Ms Harris reminded the Tribunal that Dr Rai made full admissions to the factual allegations at the outset of the hearing. She accepted her behaviour and has offered unreserved apologies to everyone from the early stages of the investigation – in her Rule 7 response, in her witness statement, XXX, in her reflections and most significantly, she has accepted her wrongdoing and apologised formally to the Tribunal whilst giving evidence on oath. Ms Harris submitted that at stage 3 of proceedings she will submit that the misconduct should be seen in the context of XXX at the material time.

43. Ms Harris submitted that whilst Dr Rai’s conduct was purposeful and required pre-planning, there were some levels on which it was arguably not “sophisticated” as evidenced by the speed with which it unravelled. Ms Harris submitted the following examples; uploaded assessments within the same day and days just after; sending MSF to fake addresses, completing them and sending them all back within a very short space of time; inadvertently post-dating assessments which would reveal immediately that there were concerns. Ms Harris submitted that this does not diminish the seriousness of the misconduct, however, it is consistent with Dr Rai’s evidence and that of XXX that Dr Rai was fixated on the need to get through the appraisal and is consistent with obsessing so much with the appraisal that she

did not think through properly the possible consequences of the fraud. XXX. She submitted Dr Rai's conduct aroused suspicion very quickly in August 2022, and only the most basic of initial interrogations revealed what she had done.

44. Ms Harris invited the Tribunal to consider that the misconduct in this case will ultimately be capable of remedy at some point, and did not suggest that that point is now. Whilst Ms Harris accepted that Dr Rai's conduct is not yet fully remediated, she reminded the Tribunal that XXX.

45. Ms Harris reminded the Tribunal of the steps Dr Rai has already taken to remediate her misconduct. Ms Harris submitted that it is clear Dr Rai has developed exceptional insight and a good understanding of:

- a. how serious her dishonest actions were;*
- b. the importance of honesty and integrity in all aspects of her life, both personal and professional;*
- c. how misconduct, and in particular dishonesty, can impact a doctor's professional position and damage public confidence in the profession;*
- d. The impact it can have on the regulator;*
- e. Impact on patients;*
- f. Impact on public as a whole;*
- g. Impact on her peers.'*

46. Ms Harris submitted that Dr Rai has developed good and timely insight in relation to the matters that have brought her before her professional body; in relation to both the seriousness of the wrongdoing and the impact on others and the profession. Dr Rai's insight has developed even further through reflection, and attendance on appropriate courses.

47. Ms Harris invited the Tribunal to consider misconduct and XXX together, and submitted that there was a 'link' between the admitted misconduct and XXX. She reminded the Tribunal that XXX were agreed that the misconduct should not be considered in isolation XXX. She submitted that XXX.

48. XXX

49. Ms Harris submitted, at the very least, XXX provides very important context to her wrongdoing, such that it would be erroneous to consider the misconduct anything other than in that context. XXX.

50. XXX

## The Relevant Legal Principles

51. 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.

52. 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 secondly whether the misconduct was serious. Only then could the Tribunal consider making a finding of impairment.

53. The Tribunal must determine whether Dr Rai’s fitness to practise is impaired today, taking into account her 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.

54. The Tribunal is also required to have regard to the wider public interest and to consider whether a finding of impairment is necessary in order 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.

55. Throughout its deliberations, the Tribunal was mindful of its responsibility to uphold the overarching objective, as set out in the Medical Act 1983 (as amended). That objective is the protection of the public and involves the pursuit of the following:

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

56. Whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance provided by *Dame Janet Smith in the Fifth Shipman Report*, as adopted by the *High Court in CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin. The Tribunal noted that any of the following features are likely to be present when a doctor’s fitness to practise is found to be impaired:

- a. *‘Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

*b. Has in the past and/or is liable in the future to bring the medical profession into disrepute; and/or*

*c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*

*d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

57. The LQC also drew the Tribunal's attention to *Cohen v GMC* (2008) EWHC 581 in which the Court held that the task of the panel, in considering impairment, is to take account of the practitioner's misconduct and then consider it in light of all the other relevant factors known to them. The Court stated that it will be highly relevant in determining if fitness to practise is impaired to consider:

- whether the practitioner's misconduct is easily remediable;
- whether the misconduct has been remedied; and
- whether the misconduct is likely to be repeated.

### The Tribunal's Determination on Impairment

XXX

58. XXX

59. XXX

60. XXX

61. XXX

62. XXX

63. XXX

### Misconduct

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

65. The Tribunal had regard to paragraphs 1, 14, 65, 68 and 71, of GMP, which provide:



**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.*

**14** *You must recognise and work within the limits of your competence.*

...

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

...

**68** *You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.*

...

**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.'*

66. The Tribunal looked firstly to the conduct which has been admitted and found proved. The Tribunal noted that Dr Rai's conduct involved her creating two false accounts in Portfolio Online in the names of Dr B and Dr A. To do so she used fake email addresses which she had generated so as to be strikingly similar to the genuine email address of Dr A, and similar to a genuine email address that Dr B might have had. Having created those false accounts in portfolio online, Dr Rai then went on to complete a number of Workplace Based Assessments and a Supervisor Report on herself, each of which spoke of her clinical ability in glowing terms. By way of example, in her falsified Educational Supervisor Summary Report at page 142 of C1, Dr Rai assessed herself as having "...performed well beyond her level of training (FY2)..." Both in making the initial decision to falsify her e-portfolio contents, and in the manner in which her plan was executed, Dr Rai knew that what she was doing was wrong.

67. The Tribunal reminded itself that Dr Rai also created 9 email addresses for fake individuals that did not exist, to whom she sent links via Portfolio Online so that those individuals could complete multi-source Feedback ('MSF') in Portfolio Online via the

nomination links that had been sent to the email addresses which she herself had created. Dr Rai then submitted multiple MSFs, through 8 of the 9 email addresses that she herself had created. The Tribunal observed that one of the nine email addresses had not provided any MSF, but that was seemingly only because Dr Rai had mis-spelled 'hotmail' as 'hotmail' in the email address, and thus it had been rejected by the server. The Tribunal noted that all of the MSF forms were submitted within a 20 minute period on 26 May 2022, but noted that in each one Dr Rai rated herself very highly in almost every domain. Whilst Dr Rai described herself to the Tribunal as "acting mechanically" during this time, the Tribunal reminded itself that Dr Rai knew that what she was doing was fraudulent, at all times, and that her behaviour initially spanned a period between 26 May 2022 and 2 June 2022.

68. The Tribunal also noted that in July 2022, Dr Rai had quite purposefully created a new membership number for Dr B with Portfolio Online, and used that membership number and the falsely created email address to communicate with Bettison.org, purporting to be Dr B. Again, both in the decision to create the false email addresses and/or a false membership number, and in all her communications with Bettison.org and RCPsych, Dr Rai knew what she was doing, and knew that what she was doing was wrong.

69. The Tribunal considered that Dr Rai's conduct was deliberate, purposeful and involved a significant degree of pre-planning and organisation. It was a sophisticated attempt to deceive and manipulate, involving repeated and prolonged dishonest behaviour which spanned a period from 26 May 2022 to 11 August 2022. It therefore represented a pattern of behaviour, not a single isolated episode. Indeed, Dr Rai's misconduct became worse as time progressed, with her conduct in July and August 2022 when seeking to change the dates on some of the assessments she had submitted with the College, being designed to cover up her earlier dishonesty. It was a 'doubling down' of the earlier dishonesty, at a time when the Tribunal considered that Dr Rai had growing insight into what she was doing. Indeed, she herself candidly accepted that in her communications with both the College and with Bettison.org she was involved in a "zero sum game" and that, by that stage, it was "all or nothing" for her. The Tribunal considered that there was intent and purpose in Dr Rai's actions, which went beyond an initial, perhaps irrational, decision to falsify her e-portfolio.

70. The Tribunal considered that overall, Dr Rai's conduct was deliberate, dishonest and prolonged. It was plainly misconduct, as evidenced by Dr Rai's own admission and her acceptance that her conduct was dishonest. Moreover, the Tribunal considered that Dr Rai's conduct was extremely serious. The Tribunal considered that honesty, trustworthiness and integrity are fundamental tenets of the medical profession; patients have to be able to trust doctors with their lives. Dr Rai's misconduct breached the fundamental tenets of the profession, and was in breach of a number of paragraphs of GMP, specifically 1, 65, 66, 68 and (noting that Dr Rai was not completing documents in her own name) paragraph 71.

Indeed, the Tribunal considered Dr Rai's misconduct would properly be regarded as deplorable by fellow practitioners, and by members of the public alike.

71. The Tribunal noted that Dr Rai's misconduct had not resulted in any harm to patients. It did however have regard to the fact that there was at least the potential for there to be a risk to patients, given that Dr Rai had represented herself – particularly in her Educational Supervisor reports – as having attained the skills required for her to progress in her clinical career. The Tribunal considered that it was dangerous for Dr Rai to falsify clinical competencies which she did not, objectively, have.

72. XXX. The Tribunal acknowledge that Dr Rai considered the appraisal to be a pass or fail event, and she told us in oral evidence that she thought she would be erased if she did not pass her appraisal. XXX. It may explain why Dr Rai did not reach out to her supervisor, family, friends XXX for help and guidance at this time. The Tribunal considered that XXX was a contributory factor to her decision making process, at least in the early stages when she made the initial decision to falsify her e-portfolio account. The Tribunal were less convinced that XXX remained a significant contributory factor as time progressed and her misconduct worsened, given her admission that by the time she was impersonating Dr B in her communications with the College and with Bettison.org, she was involved in a zero sum, all or nothing situation. Nonetheless, the Tribunal accept that Dr Rai's misconduct cannot and should not be seen in a vacuum, and that XXX at the time of the events provides some mitigation for her actions. The Tribunal however have noted that Dr Rai, at all times, knew that what she was doing was wrong. Although Dr Rai told the Tribunal that she '*wasn't thinking*' and that '*XXX clouded my vision as to the options available to me*', there is no evidence to suggest that she did not understand that what she was doing was wrong. That she did not fully consider the consequences of her actions does not diminish her knowledge that what she was doing, was wrong.

73. In conclusion, the Tribunal determined that despite any mitigating influence of XXX, her conduct fell so far short of the standards reasonably to be expected of a doctor as to amount to serious misconduct.

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

### Impairment

75. Having found that the facts found proved amounted to serious misconduct, the Tribunal went on to consider whether, as a result of that misconduct, Dr Rai's fitness to practise is currently impaired.

76. In determining whether a finding of impairment is necessary, the Tribunal was mindful throughout of the overarching objective and had regard to Dr Rai's insight, remediation, and the likelihood of repetition.

77. The Tribunal had regard to paragraph 76 of the judgment in *CHRE v NMC & Paula Grant [2011] EWHC 927 (Admin)*, in which Mrs Justice Cox set out the helpful and comprehensive approach of Dame Janet Smith in her 5th Shipman Report when determining current impairment (see above). The Tribunal determined limbs (a), (b) (c) (d) were engaged for the reasons set out below.

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

79. The Tribunal considered the approach taken in *Cohen*. The Tribunal looked for evidence of remediation and insight, and the likelihood of repetition, balanced against the three elements of the overarching statutory objective.

80. The Tribunal considered that Dr Rai's misconduct is, because it involves dishonesty, by its nature, difficult to remediate. The Tribunal was however impressed by the evidence it had seen as regards Dr Rai's remediation thus far, in particular her full admissions, her apologies and her reflection logs dating from October 2022. Furthermore, Dr Rai had undertaken several courses related to her remediation which covered ethics, reflection, insight and probity. The Tribunal however noted that, as accepted by Ms Harris on behalf of Dr Rai, it was not possible to say that Dr Rai had fully remediated. In particular, whilst Dr Rai had reflected extensively on her initial decision to falsify her e-portfolio, there was little evidence of reflection as to just how deliberate, calculated and prolonged her attempts had been. Moreover, the Tribunal considered there to be an absence of reflection as to why Dr Rai chose to redouble her efforts at subterfuge in July and August 2022, rather than admitting and withdrawing from her dishonest scheme.

81. The Tribunal also considered whether there was a risk of repetition. It noted that Dr Rai's misconduct had occurred in the context of XXX. XXX Dr Rai remains unfit to practice without restrictions, in the opinion of XXX. Whilst Dr Rai XXX, she has not yet found herself in the kind of stressful, difficult or pervasive situation that could be construed as a 'pass/fail' event, so it is not clear how Dr Rai will react. Accordingly, there remains, in the view of the Tribunal, a risk of repetition in this case.

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

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

#### **Determination on Sanction - 26/04/2024**

1. Having determined that Dr Rai's fitness to practise is impaired by reason of XXX misconduct XXX, 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**

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

#### **Submissions**

3. On behalf of the GMC, Ms Dudley-Jones submitted that the appropriate sanction in this case was one of erasure. She referred the Tribunal to the Sanctions Guidance (2024) ('the SG') throughout her submissions.

4. Ms Dudley-Jones reminded the Tribunal of the mitigating factors in this case. She submitted that Dr Rai has presented evidence of insight and remediation efforts. Dr Rai has fully admitted the facts in this case, including dishonesty, and she has apologised and reflected. She reminded the Tribunal there is evidence that Dr Rai is keeping her clinical knowledge up to date. She submitted that prior to these events Dr Rai was of good character and has no previous fitness to practice history before the GMC. Ms Dudley-Jones reminded the Tribunal that Dr Rai is a junior doctor, she lacked experience and was at a relatively early stage of her career at the time of events.

5. Ms Dudley-Jones acknowledged that the Tribunal had noted and was impressed by the evidence of Dr Rai's remediation thus far, as set out within its impairment determination. However, she reminded the Tribunal that they were unable to state that Dr

Rai had fully remediated. She submitted whilst Dr Rai has reflected extensively on her initial decision to falsify her e-portfolio, the Tribunal had identified that there is little evidence of reflection as to just how deliberate, calculated and prolonged her attempts had been, and absence of reflection as to why she had chosen to redouble her efforts in July and August 2022 rather than abandon her scheme.

6. Ms Dudley-Jones invited the Tribunal to consider the aggravating factors in this case. She submitted that not only did Dr Rai commit serious dishonesty, but that as time progressed her dishonesty worsened and as such during that stage she then began to impersonate her clinical supervisor Dr B to the Royal College of Psychiatrists and also to Bettison.org. Furthermore, her serious dishonesty was not simply only self-centred and goal orientated, but it also affected others and plainly impacted those who she impersonated.

7. Ms Dudley-Jones submitted that in this case there have been particularly serious departures from the principles set out in GMP, namely paragraphs 1, 65, 66, 68 and 71. She submitted there has been a deliberate and reckless disregard for the principles set out in GMP. She reminded the Tribunal that it had found Dr Rai's conduct to be deliberate, purposeful, involving a significant degree of pre planning and organisation. She reminded the Tribunal of its findings of serious misconduct.

8. Ms Dudley-Jones submitted that in the particular circumstances of this case, erasure is the only appropriate sanction which is commensurate with the nature of the allegations which have been found proven, and in order to protect and maintain public confidence in the profession.

9. On behalf of Dr Rai, Ms Harris submitted that the appropriate and proportionate sanction in this case would be one that would allow Dr Rai to work again in the near future. She referred the Tribunal to the Sanctions Guidance (2024) ('the SG') throughout her submissions.

10. Ms Harris reminded the Tribunal that Dr Rai acknowledges absolutely the serious nature of her misconduct, as she has done from the outset. She invited the Tribunal to take into account as mitigation XXX at the time the misconduct occurred.

11. Ms Harris invited the Tribunal to consider Dr Rai's professional position. She reminded the Tribunal that when Dr Rai XXX, she is a very good doctor. She drew the Tribunal's attention Dr L's supervisor report, dated 30 June 2023, in which he reported that Dr Rai had,

*"performed well in her role as speciality doctor. She is reliable and accessible to the*

*team and responds to patient care needs promptly. She has been diligent in completing her tasks in a timely way. She has sought advice and support as needed. So far she has established good relationships with all her colleagues, and has been able to manage professional boundaries. No concerns have been noted from any team member or patients. Her clinical documentation is good, and she has been able to use feedback to improve her skills and adapt to the requirements of this role. There have been no clinical or professionalism concerns during this current job.”*

12. On 31 August 2023, whilst these proceedings remain live and Dr Rai’s registration was subject to interim conditions, Dr L once again reported that there had been “*no concerns about her clinical practice or her professionalism, including her interactions with others*”. During the same time Dr Rai underwent a successful appraisal with the locum agency with whom she registered to work at the time, making full disclosure of the ongoing GMC investigation and the nature of it. Ms Harris also took the Tribunal to recent multi-source feedback obtained by Dr Rai, all of which has been positive and has spoken of Dr Rai as a dedicated and hardworking colleague.

13. Ms Harris submitted that Dr Rai is hardworking and conscientious and sets high standards for herself. She submitted that this could explain how badly she was affected when in early 2022, XXX. XXX.

14. XXX

15. Ms Harris then addressed the Tribunal on the question of Sanction. Ms Harris invited the Tribunal to consider possible sanctions in ascending order, considering the least restrictive sanction. Ms Harris invited the Tribunal to consider the mitigating factors in this case, and balance them against the central aim of sanctions. Ms Harris submitted that the concerns in this case are remediable ultimately. She submitted that Dr Rai had shown considerable insight, and had made significant and concerted efforts to remediate her misconduct. Ms Harris reminded the Tribunal that Dr Rai had reflected impressively and intuitively on CPD courses. She submitted Dr Rai’s attempts to address and remediate her misconduct are significant because they are illustrative of her commitment to the process of developing insight and to preventing a recurrence of her behaviour, and her commitment to the profession as a whole. Ms Harris reminded the Tribunal of Dr L’s observations from his supervision of Dr Rai in 2023, and of the positive testimonials received in favour of Dr Rai.

16. Ms Harris reminded the Tribunal of its findings that Dr Rai’s misconduct “*cannot and should not be seen in a vacuum*” given XXX; and that Dr Rai’s misconduct “*had occurred in the context of XXX*”. She submitted that given those findings, and in the exceptional circumstances of this particular case, the Tribunal may wish to consider whether an order of

conditions would be sufficient to satisfy the public interest. Such an order would also ensure that Dr Rai returned to work and practised safely.

17. Moving on to the possibility of suspension, Ms Harris submitted that there was no need to suspend Dr Rai's registration for XXX reasons, given that XXX had determined that Dr Rai was fit to practice with restrictions. She did however acknowledge that this was not just a XXX case, but also a dishonesty case. Ms Harris rightly acknowledged that dishonesty cases are serious, but invited the Tribunal to have regard to Dr Rai's strong personal mitigation. She submitted that if a more serious sanction is required, then the imposition of a short period of suspension would be sufficient to mark the public interest in the specific circumstances of this case. Ms Harris referred to the Sanctions Guidance (2024) ('SG') stating that suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and the public about what is regarded as behaviour unbefitting of a registered doctor, and is appropriate in cases where the proven misconduct is serious, but not fundamentally incompatible with registration. She highlighted serious breaches of Good Medical Practice (GMP) but highlighted that there had been no evidence of repetition since the incident.

18. Ms Harris submitted erasure is not necessary in this case to meet the overarching objective of protecting the public. Given the significant mitigation, a lesser sanction will satisfy that objective. She submitted the public interest has been marked, and standards of conduct and behaviour have been upheld, by the Tribunal's finding of impairment, and that a sanction of erasure was not mandatory, even in cases of serious misconduct or where that had been serious departures from GMP.

### **The Relevant Legal Principles**

19. The Tribunal is aware that the decision as to the appropriate sanction, if any, to impose on Dr Rai's registration is a matter for this Tribunal alone, exercising its independent judgement. In reaching its decision, the Tribunal has taken account of the SG.

20. The Tribunal took into account its decision on impairment, the submissions of both parties, and the documentary and oral evidence adduced during the course of these proceedings.

21. The Tribunal recognised that the purpose of a sanction is not to be punitive, although it may have a punitive effect. The Tribunal must impose a sanction if it is required in order to protect patients, maintain public confidence in the profession, and to promote and maintain proper professional standards. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Rai's interests with the public interest.



22. In deciding what sanction, if any, to impose, the Tribunal reminded itself that it must consider each of the sanctions available, starting with the least restrictive, to establish which sanction is appropriate and proportionate.

### The Tribunal's Determination on Sanction

#### Mitigating and Aggravating Factors

23. The Tribunal first identified the aggravating features present in this case. It reminded itself of the scope and gravity of the misconduct. The Tribunal reminded itself of its findings that Dr Rai's dishonesty was particularly serious, being a quite calculated, deliberate and sophisticated attempt to deceive and manipulate, involving repeated and prolonged dishonest behaviour which spanned a period from 26 May 2022 to 11 August 2022. The conduct involved falsifying the contents of her e-portfolio, and later impersonating Dr B in communications with both Bettison.org and her Royal College. The Tribunal were mindful that during the later stages of Dr Rai's misconduct, that is in July and August 2022, her actions were driven less by the need to ensure that she had sufficient evidence in her e-portfolio to pass her appraisal, and more by a need to cover up her earlier dishonest fabrication of the evidence that she had added to her e-portfolio.

24. The Tribunal then considered matters which mitigated Dr Rai's misconduct. It noted that Dr Rai had made full and frank admissions to all the allegations at an early stage, including dishonesty. The Tribunal noted that Dr Rai had expressed regret regarding her conduct and apologised repeatedly. Dr Rai had reflected extensively and sincerely about the incident, including with Dr L, who had reported that Dr Rai was *"...able to discuss the incidents, the alleged concerns and XXX appropriately in her supervision meetings. She has shown an ability to reflect on what happened and has expressed remorse for her actions."* The Tribunal was encouraged that Dr Rai had XXX.

25. The Tribunal noted that Dr Rai is of previous good character. Indeed, the testimonials which the Tribunal had read describe Dr Rai as a trustworthy and honest woman who is a valued friend and colleague. The Tribunal accept that Dr Rai's misconduct, whilst sustained over a period of months, was completely out of character for her and was all related to passing her appraisal. It was therefore one continuing act, albeit sustained over a prolonged period of time. The Tribunal also noted that she was a relatively junior doctor at the time of this misconduct, who was inexperienced and isolated. The Tribunal noted and had regard to the fact that Dr Rai had developed considerable insight and had gone to great efforts to remediate her misconduct, albeit noting that she had not yet fully remediated.

26. The Tribunal spent a great deal of time considering the impact of XXX and the link to her misconduct. The Tribunal noted that XXX. This no doubt played a part in Dr Rai's

subjective feeling that her appraisal was a pass or fail event. The Tribunal accept that Dr Rai was socially isolated and felt unable to share her worries with her family and friends, XXX. In the absence of these circumstances, she may well have made different decisions. The Tribunal therefore considered XXX to be a mitigating factor in this case. It noted that since Dr Rai's misconduct appeared, at least in part, linked to XXX, the risk of repetition was mitigated XXX. However, the Tribunal also noted that whatever the effects of XXX, Dr Rai had known, right from the outset, that what she was doing was wrong. She recognised and acknowledged that her decisions were wrong, and yet continued. Indeed Dr Rai candidly accepted that during the latter stages of the events, in July and August 2022, she was acting to cover up her earlier dishonesty.

27. Having considered these factors, the Tribunal then went on to consider what sanction, if any, to impose, starting with the least restrictive

#### No action

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

29. The Tribunal was satisfied that there were no exceptional circumstances in Dr Rai's case which could justify it taking no action. It determined that, given the Tribunal's findings in respect of impairment, to take no action, would not be sufficient, proportionate or in the public interest.

#### Conditions

30. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Rai's registration. It had regard to paragraphs XXX, 82(a), 82(c), and XXX of the SG, which state:

'XXX

...

**82** *Conditions are likely to be workable where:*

*a the doctor has insight*

*b ...*

*c the tribunal is satisfied the doctor will comply with them*

*d ...*

**XXX**

31. The Tribunal acknowledged that conditions may, in some circumstances, be an appropriate sanction to support a doctor XXX to remain in clinical practice, while protecting the public. However, given that this case involved not just XXX but also serious misconduct, the Tribunal was of the opinion that conditions would be not be appropriate or workable in this case.

32. The Tribunal was also of the view that conditions would not appropriately mark the seriousness of the misconduct. Therefore, the Tribunal concluded that imposing conditions on Dr Rai's registration would not be appropriate or proportionate, and would not meet the objectives of the overarching objective.

### **Suspension**

33. The Tribunal then considered whether an order of suspension would be proportionate in these circumstances.

34. The Tribunal has borne in mind paragraphs 91-97 of the SG. In particular paragraph 97,

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

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

*b...*

**XXX**

35. The Tribunal was of the settled view that the dishonesty in this case was very serious. It was conduct that would be considered deplorable by both the profession and the public,

given its calculated and sustained nature. In the circumstances, a sanction of erasure would be under strong consideration. However, the Tribunal determined that the mitigating nature of XXX at the time of the incident, coupled with her high levels of insight, significant remediation and her commitment to improving XXX was such that in the particular circumstances of this case a sanction of erasure was not proportionate or necessary. The Tribunal was of the view that any member of the public or professional colleague fully aware of all the circumstances in which Dr Rai's misconduct occurred, would understand and accept that the imposition of a period of suspension in this case was proportionate, notwithstanding the serious nature of the misconduct. The Tribunal in particular bore in mind the public interest in having good doctors, and the evidence thus far suggested that Dr Rai was a dedicated and conscientious doctor committed to improving the lives of her patients, XXX. It accepted that she had a promising future in psychiatry, XXX. Furthermore, since the misconduct had occurred Dr Rai had worked as a locum and had been given a glowing report about her clinical and professional skills by her supervisor. In the particular circumstances of this case, the Tribunal did not consider Dr Rai's misconduct to be fundamentally incompatible with continued registration

36. In the circumstances, the Tribunal decided that the imposition of a suspension was appropriate, necessary and proportionate. It would protect the public as Dr Rai was not currently fit to practise without restrictions XXX. It would also serve to mark the serious nature of the misconduct, uphold public confidence in the profession and ensure the objectives of the overarching objective were upheld.

#### Length of Suspension

37. Having determined to impose a period of suspension on Dr Rai's registration, the Tribunal went on to consider the length of the period of suspension. It considered the following paragraphs of SG:

*'100 The following factors will be relevant when determining the length of suspension:*

- a) the risk to patient safety/public protection*
- b) the seriousness of the findings and any mitigating or aggravating factors*
- c) ensuring the doctor has adequate time to remediate.*

*101 The tribunal's primary consideration should be public protection and the seriousness of the findings. Following any remediation, the time all parties may need to prepare for a review hearing if one is needed will also be a factor'*

38. In considering the length of suspension, the Tribunal bore in mind that there should be sufficient time to allow for Dr Rai to fully remediate her misconduct and that it would provide an opportunity to take further steps to XXX. The Tribunal was also of the view that despite the mitigation afforded by the impact of XXX on her misconduct, the misconduct found proved remained of such seriousness that it was necessary that a significant period of suspension was imposed to protect public confidence in the profession. For those reasons it determined that a period of 9 months suspension was appropriate in this case.

### Review Hearing

39. The Tribunal determined to direct a review of Dr Rai's case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought. The Tribunal wishes to clarify that at the review hearing it will be Dr Rai's responsibility to demonstrate that she is fit to practice. To assist, the Tribunal indicated that any future review panel may wish to see:

- XXX;
- Documents that would be helpful to show to the reviewing tribunal how the findings of this tribunal have been considered and applied to ensure she is fit to practice;
- Any documentation that Dr Rai may consider the Tribunal would find helpful in relation to any plan she has to return to work;
- Supporting documentary evidence of how she has kept her medical knowledge up to date, including but not limited to CPD course attendance notes, certificates, etc;

### Determination on Immediate Order - 26/04/2024

1. Having determined that Dr Rai's registration should be suspended for a period of 9 months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether her registration should be subject to an immediate order.

### Submissions

2. On behalf of the GMC, Ms Dudley-Jones Counsel, submitted that an immediate order is necessary to reflect the seriousness of the findings of the Tribunal and its decision to suspend Dr Rai for 9 months from the Medical Register. Ms Dudley-Jones submitted that an immediate order is necessary in order to protect the public interest, in particular to uphold standards and maintain public confidence in doctors.

3. On behalf of Dr Rai, Ms Harris made no submissions in relation to an immediate order but reminded the Tribunal of the case of *Aga v General Dental Council [2023] EWHC 3208 (Admin)*.

### The Tribunal's Determination

4. In reaching its decision, the Tribunal considered the relevant paragraphs of the SG and exercised its own independent judgement. In particular, it took account of paragraphs 172, 173 and 178, which state:

**'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.'*

5. The Tribunal determined that, in light of XXX, the seriousness with which it viewed Dr Rai's misconduct, its findings on impairment and the sanction it has imposed, it is in the public interest to suspend her registration with immediate effect in order to protect the

public, uphold standards for doctors and maintain public confidence in the medical profession.

6. This means that Dr Rai's registration will be suspended today. The substantive direction, as already announced, will take effect 28 days from the date on which written notification of this decision is deemed to have been served, 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.

7. The interim order will be revoked when the immediate order takes effect.

8. That concludes the case.

**Schedule 1**

XXX

**Schedule 2**

XXX

**Schedule 3**

XXX

**Schedule 4**

Assessment name	Dated
CT1 JCP Form	26 May 2022
CT1 Mini-ACE Form	29 July 2020
CT1 ACE Form	29 July 2020
CT1 CP Form	24 July 2020
CT1 Cbd Form	17 June 2020
CT1 Cbd Form	9 June 2020
CT1 CBDGA Form	4 June 2020
CT1 ACE Form	25 May 2020
CT1 CBDGA Form	22 April 2020

**Schedule 5**

Assessment name	Dated
CT1 CBDGA Form	12 October 2021
CT1 CBDGA Form	12 August 2021
CT1 Cbd Form	12 August 2021
CT1 Mini-ACE Form	11 August 2021
CT1 Mini-ACE Form	27 July 2021
CT1 Cbd Form	26 July 2021
CT1 Mini-ACE Form	23 June 2021
CT1 Mini-ACE Form	10 May 2021
CT1 ACE Form	6 May 2021
CT1 Cbd Form	6 May 2021
CT1 JCP Form	27 April 2021
CT1 ACE Form	13 April 2021



Schedule 6

XXX

Schedule 7

XXX