

**PUBLIC RECORD**

**Dates:** 26/11/2018 - 29/11/2018

**Medical Practitioner's name:** Dr Rajandeep MANN

**GMC reference number:** 6103442

**Primary medical qualification:** MB ChB 2004 University of Birmingham

**Type of case**  
New - Misconduct

**Outcome on impairment**  
Impaired

**Summary of outcome**

Suspension, 2 months.

**Tribunal:**

Legally Qualified Chair	Mr Paul Burns
Lay Tribunal Member:	Mrs Anna Crawley
Medical Tribunal Member:	Dr Damian McDermott
Tribunal Clerk:	Ms Angela Carney

**Attendance and Representation:**

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Lee Gledhill, Counsel, directly instructed.
GMC Representative:	Mr Alan Taylor, 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.

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### **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 - 27/11/2018**

#### **Background**

1. Dr Mann qualified as a doctor in 2004. At the time of the events resulting in this hearing, Dr Mann was practising as a Consultant Psychiatrist at the Berrywood Hospital.
2. On 17 February 2017 at around 18:10 hrs Dr Mann and a relative went to an ATM (Automated Teller Machine or cash machine) in order to withdraw cash. Dr Mann removed the money and gave it to his relative. Dr Mann and his relative then left the ATM and returned home.
3. The incident was captured on Closed Circuit Television (CCTV). It lasted for less than one minute. Some weeks later following their investigations the Police were able to identify and locate Dr Mann. Police attended at Dr Mann's home. Dr Mann was able to produce the cash in an envelope. He was interviewed under caution by Police on 21<sup>st</sup> April 2017 at which stage he denied any offence, stating it was never his or his relative's intention to keep the money.
4. In an email dated 9 July 2017 Dr Mann informed the GMC that he was informed on 7 July 2017 that the Police were seeking to press charges.
5. On 3 August 2017 at Leicester Magistrates' Court Dr Mann was made the subject of a six month conditional discharge, having pleaded guilty to an offence of dishonesty, namely stealing cash to the value of £250.00 contrary to sections 1(1) and 7 of the Theft Act 1968.
6. In an email dated 13 August 2017 Dr Mann informed the GMC of the outcome of the hearing at Leicester Magistrates Court on 3<sup>rd</sup> August 2017 (albeit he mistakenly referred to the conditional discharge as a suspended sentence).

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

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

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1. On 3 August 2017 at Leicester Magistrates' Court you were made the subject of an order for conditional discharge for a period of six months in respect of:
  - a. the offence of stealing cash to the value of £250.00 contrary to sections 1(1) and 7 of the Theft Act 1968.  
**Admitted and found proved**
2. Your conduct as described in paragraph 1 was dishonest.  
**Admitted and found proved**

### **The Admitted Facts**

8. At the outset of these proceedings, through his counsel, Mr Gledhill, on behalf of Dr Mann, made admissions to all paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

### **Impairment**

9. 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 Mann's fitness to practise is impaired by reason of misconduct.

### **Submissions**

10. On behalf of the GMC, Mr Taylor explained that this case has been brought as a misconduct case, because the imposition of a conditional discharge does not enable the case to be brought as a conviction case. Nonetheless it is agreed that Dr Mann pleaded guilty to an offence of dishonesty, namely theft.

11. Mr Taylor reminded the Tribunal of the definition of misconduct, namely some act or omission which falls short of the proper standards of professional behaviour and is serious.

12. Mr Taylor reminded the Tribunal that on 9 July 2017 Dr Mann referred himself to the GMC. He referred the Tribunal to the Memorandum of Entry and stated that Dr Mann had pleaded guilty to theft and received a conditional discharge for 6 months.

13. Mr Taylor reminded the Tribunal of the background to the theft. He referred the Tribunal to the Police statement of the victim, the timings of the theft from the CCTV and the record of the police interview with Dr Mann.

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14. Mr Taylor reminded the Tribunal that Dr Mann was interviewed by the Police approximately two months after the theft, once the Police had established his identity. Mr Taylor noted that during his interview Dr Mann told the Police that it had never been his intention to keep the money.

15. Mr Taylor submitted that this was not an insignificant amount of money. He stated that Dr Mann accepts he could have done more to find the owner, perhaps on the day itself, or to return the money once he had it in his possession. Mr Taylor stated that the 17 February 2017 was a Friday so Dr Mann had all weekend to return the money. He submitted that for a doctor in his position his actions were quite unacceptable. Mr Taylor drew the Tribunal's attention to the victim's witness statement which confirmed that the £250.00 belonged to him and that no one had permission to take it.

16. Mr Taylor referred the Tribunal to paragraph 2 of Dr Mann's personal submission dated 10<sup>th</sup> April 2018 and in particular the following statements made by Dr Mann in that submission:

*'I could have, and should have, done far more. There came a point in time where I moved from having an intention to return the money and as time passed I continued to not act in handing the money to the authorities and this initial intention turned to the unacceptable behaviour of keeping the money for myself. I fully accept and understand that this was dishonest behaviour...*

*...it was dishonest of me to have had the money in my possession for the length of time I did and not intending to return it.'*

17. Mr Taylor submitted that Dr Mann's conduct was plainly conduct that would be regarded as deplorable by fellow medical practitioners, which amounted to professional misconduct.

18. In relation to impairment, Mr Taylor submitted that Dr Mann's fitness to practise is currently impaired. He referred the Tribunal to paragraphs 69, 70 and 71 in the case of *Grant v NMC* [2011] EWHC 927 (Admin) (Grant):

*'69. It is clear, notwithstanding the references in those passages to whether fitness to practise "has been" impaired, that the question is always whether it is impaired as at the date of the hearing, looking forward in the manner indicated by Silber J in his judgment. The question for this Committee as at 21 April 2010 was therefore "is this Registrant's current fitness to practise impaired?"*

*70. An assessment of current fitness to practise will nevertheless involve consideration of past misconduct and of any steps taken subsequently by the practitioner to remedy it. Silber J recognised this when referring, at paragraph 65, to the necessity to determine whether the misconduct is easily*

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*remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.*

*71. However it is essential, when deciding whether fitness to practise is impaired, not to lose sight of the fundamental considerations emphasised at the outset of this section of his judgment at paragraph 62, namely the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession.'*

19. Mr Taylor referred the Tribunal to paragraphs 73 and 100 in the case of Grant. Mr Taylor submitted that in relation to this case, the dishonesty falls into the category in which a finding of impairment of fitness to practise may be justified on the grounds that it is necessary to reaffirm clear standards of professional conduct so as to maintain public confidence in the practitioner and in the profession.

*73. Sales J also referred to the importance of the wider public interest in assessing fitness to practise in **Yeong v. GMC** [2009] EWHC 1923 (Admin), a case involving a doctor's sexual relationship with a patient. Pointing out that **Cohen** was concerned with misconduct by a doctor in the form of clinical errors and incompetence, where the question of remedial action taken by the doctor to address his areas of weakness may be highly relevant to the question whether his fitness to practise is currently impaired, Sales J considered that the facts of **Yeong** merited a different approach. He upheld the submission of counsel for the GMC that:*

*"... Where a FTPP considers that the case is one where the misconduct consists of violating such a fundamental rule of the professional relationship between medical practitioner and patient and thereby undermining public confidence in the medical profession, a finding of impairment of fitness to practise may be justified on the grounds that it is necessary to reaffirm clear standards of professional conduct so as to maintain public confidence in the practitioner and in the profession. In such a case, the efforts made by the medical practitioner in question to address his behaviour for the future may carry very much less weight than in a case where the misconduct consists of clinical errors or incompetence."*

*100. The acts of misconduct found proved were therefore serious violations of the standards of conduct to be expected of a midwife; and they extended over a prolonged period. In my judgment they were more analogous to misconduct of the type found in **Yeong**, rather than that identified in **Cohen**. Thus, whilst I agree that the three factors identified in the latter case were relevant factors to be considered, the wider issues of public interest and public confidence in the profession were of fundamental importance in assessing impairment of this Registrant's fitness to practise. This was especially so where a finding that her fitness to practise was not impaired*

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*would amount, as Ms McDonald pointed out, to a complete acquittal in the face of serious and persistent misconduct.'*

20. Mr Taylor also referred the Tribunal to paragraph 74 in the case of Grant:

*'74. I agree with that analysis and would add this. 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.'*

21. Mr Taylor submitted that in the circumstances of this case Dr Mann's efforts to address his misconduct carry much less weight at the impairment stage than might be the case had the misconduct consisted of clinical errors or incompetence. Mr Taylor further submitted that, in these circumstances, where Dr Mann has committed theft of cash from another, public confidence in the profession would be undermined if a finding of impairment were not made. Further the public would be surprised and dismayed if no action was taken in relation to impairment given the facts of this case.

22. Mr Taylor also referred the Tribunal to paragraphs 1 and 65 of the GMC guidance Good Medical Practice (February 2018) (GMP), which state:

*'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.'*

23. Mr Taylor stated that Dr Mann accepts that his conduct was dishonest and that he broke the law.

24. Mr Taylor referred the Tribunal to paragraph 76 of Grant, which states:

*76. I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from **Shipman**, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor's fitness to practise, but in my view the test would be equally applicable to other practitioners governed by different regulatory schemes.'*

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*"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."*

25. Mr Taylor submitted that Dr Mann has brought the medical profession into disrepute and has brought disgrace upon himself by his dishonest actions. Mr Taylor submitted that limbs (b), (c) and (d) of paragraph 76 in Grant are each engaged in this case and that a finding of impairment should be made.

26. On behalf of Dr Mann, Mr Gledhill submitted that Dr Mann admits that his actions were dishonest, amount to misconduct and that his fitness to practise is currently impaired. Mr Gledhill accepted the principles set out in the case of Grant and that honesty is a fundamental tenet of the medical profession.

27. Mr Gledhill reminded the Tribunal that Dr Mann's misconduct was not directly relating to patients but was in Dr Mann's personal sphere. Mr Gledhill noted that Dr Mann has expressed regret. He submitted that Dr Mann has had an 'evolution of thinking', has reflected and over time accepted that his actions were dishonest, leading to a guilty plea before the Magistrates Court.

28. Mr Gledhill stated that in relation to a criminal case a doctor is entitled to defend themselves and it would be wrong of the Tribunal to draw any adverse inference from his denials in interview. Mr Gledhill submitted that Dr Mann has developed full insight into his misconduct and the risk of repetition is negligible.

### **The Evidence**

29. The Tribunal has taken into account all the documentary evidence received during the impairment stage of the hearing, including:

- Email from Dr Mann to the GMC dated 9 July 2017
- Memorandum of Entry from Register of Leicester and Rutland Magistrates Court

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- Email from Dr Mann to the GMC dated 13 August 2017
- Transcript of Dr Mann’s Police interview dated 21 April 2017
- Police Witness statement of the victim dated 19 April 2017

30. Dr Mann provided his own witness statement dated 10 April 2018 which the Tribunal has considered and been referred to in submissions.

31. The Tribunal also received documentary evidence, including:

- Continuing Professional Development (CPD) Certificates
- 360 Patient Feedback reports
- Dr Mann’s Appraisal April 2016 to March 2017
- Statement and Addendum from Dr H, Responsible Officer, dated 4 and 8 October 2018
- Appraisal information

32. The Tribunal also received in support of Dr Mann a number of testimonials from professional colleagues, including:

- Dr A, Consultant Psychiatrist
- Ms B, Senior Clinical Psychologist
- Mrs C, Mental Health Nurse
- Ms D, Mental Health Capacity Manager, Northamptonshire Healthcare NHS Foundation Trust
- Nurse E, Senior Lecturer Prescribing and Primary Care, Northamptonshire Healthcare NHS Foundation Trust
- Dr F, Locum Psychotherapy Tutor, Northamptonshire Healthcare NHS Foundation Trust

### **The Relevant Legal Principles**

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

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

35. The Tribunal must determine whether Dr Mann’s fitness to practise is impaired today.

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

36. The Tribunal noted that Dr Mann was made the subject of an order for conditional discharge for a period of six months for an offence of dishonesty, namely stealing cash to the value of £250.00.

37. The Tribunal noted paragraphs 1 and 65 of the GMC’s guidance, GMP. By stealing cash to the value of £250.00, Dr Mann committed a criminal offence. His actions were dishonest, as he accepted before the Magistrates Court following a period of reflection. Dr Mann has clearly breached the principles of honesty, integrity and acting within the law as set out in those paragraphs. The Tribunal was satisfied that Dr Mann’s dishonest actions have brought the medical profession into disrepute and breached a fundamental tenet of the medical profession.

38. The Tribunal concluded that Dr Mann’s conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

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

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

40. The Tribunal carefully considered the case of Grant. The Tribunal was satisfied that Dr Mann’s misconduct has in the past brought the medical profession into disrepute. By failing to be honest and trustworthy Dr Mann has breached a fundamental tenet of the medical profession. Accordingly the Tribunal was satisfied that limbs (b), (c) and (d) of Paragraph 76 in Grant are engaged in this case.

41. The Tribunal has borne in mind the public interest in this case and that the public expects doctors to be honest. The Tribunal has also borne in mind its statutory overarching objective.

42. The Tribunal noted that the issues raised by this case focus on the public interest and public confidence in the medical profession, including the need to uphold and re-affirm clear standards of professional conduct so as to maintain public confidence in the practitioner and the profession. Whilst the Tribunal has noted and taken account of Dr Mann’s considerable and persuasive evidence as to insight and remediation, the Tribunal considers that this evidence carries very much less weight in the particular circumstances of this case than it would in a case where the misconduct consisted of clinical errors or incompetence.

43. The Tribunal considered that were it not to make a finding of impairment in the particular circumstances of this case, the need to uphold proper professional standards and public confidence in the medical profession would be undermined.

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44. The Tribunal has therefore determined that Dr Mann’s fitness to practice is impaired by reason of misconduct.

### **Determination on Sanction - 29/11/2018**

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

### **The Evidence**

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

3. Dr Mann gave oral evidence to the Tribunal. It found Dr Mann’s evidence to be impressive in relation to his personal reflection and the significant steps he has taken to address his dishonest conduct and remediate.

4. The Tribunal heard evidence on behalf of Dr Mann from the following witnesses, in person, all of whom are professional colleagues:

- Dr A, Consultant Psychiatrist
- Dr G, Consultant Psychiatrist
- Dr F, Consultant Psychiatrist

### **Submissions**

5. Mr Taylor reminded the Tribunal of the over-arching objective and emphasised that the focus in this case is on limbs (b) and (c). Mr Taylor referred the Tribunal to the Sanctions Guidance (February 2018) (the SG). In relation to the standards doctors are expected to meet he stated that paragraph 10d of the SG, in particular, is engaged in this case. Paragraph 10d states:

*'10. Good Medical Practice covers the fundamental aspects of a doctor’s role, including:*

*...*

*d. being trustworthy and acting with integrity and within the law'*

6. Mr Taylor reminded the Tribunal that Dr Mann broke the law, was convicted of theft and given a conditional discharge. He stated that against that background the facts of this case constitute a serious matter.

7. In relation to maintaining public confidence in the profession Mr Taylor referred the Tribunal to paragraph 17 of the SG.

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*'17. Patients must be able to trust doctors with their lives and health, so doctors must make sure that their conduct justifies their patients' trust in them and the public's trust in the profession (see paragraph 65 of Good Medical Practice). Although the tribunal should make sure the sanction it imposes is appropriate and proportionate, the reputation of the profession as a whole is more important than the interests of any individual doctor.*

8. In relation to proportionality Mr Taylor referred the Tribunal to paragraphs 20 and 21 of the SG.

*20. In deciding what sanction, if any, to impose the tribunal should consider the sanctions available, starting with the least restrictive. It should also have regard to the principle of proportionality, weighing the interests of the public against those of the doctor (this will usually be an impact on the doctor's career, eg a short suspension for a doctor in training may significantly disrupt the progression of their career due to the nature of training contracts).*

*21. However, once the tribunal has determined that a certain sanction is necessary to protect the public (and is therefore the minimum action required to do so), that sanction must be imposed, even where this may lead to difficulties for a doctor. This is necessary to fulfil the statutory overarching objective to protect the public.*

9. In relation to aggravating and mitigating factors, Mr Taylor cited paragraphs 24 onwards. He referred the Tribunal to paragraphs 24 and 25a:

*'24. The tribunal needs to consider and balance any mitigating factors presented by the doctor against the central aim of sanctions (see paragraphs 14–16). The tribunal is less able to take mitigating factors into account when the concern is about patient safety, or is of a more serious nature, than if the concern is about public confidence in the profession.*

*25. The following are examples of mitigating factors.*

*a. Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it. This could include the doctor admitting facts relating to the case,..making efforts to prevent behaviour recurring,..'*

10. Mr Taylor reminded the Tribunal of the mitigating factors, in that Dr Mann has taken clear steps to remediate, is apologetic, regretful and has shown insight into his misconduct. Mr Taylor also reminded the Tribunal of paragraph 40 of the SG:

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*'40 As with other mitigating factors, any references or testimonials will also need to be weighed appropriately against the nature of the facts found proved.'*

11. Mr Taylor reminded the Tribunal that Dr Mann's dishonest conduct occurred in his personal life and referred the Tribunal to paragraph 56a 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 (this list is not exhaustive):*

*a. issues relating to probity – ie being honest and trustworthy and acting with integrity (see paragraphs 120–128)'*

12. Mr Taylor also referred the Tribunal to paragraphs 1 and 65 of GMP, as cited in its determination on impairment, and stated that given the facts, this is a very serious matter, as Dr Mann accepts.

13. On the question of the options on sanction available to the Tribunal, Mr Taylor referred the Tribunal to paragraphs 66, 68, 69 and 70 of the SG, as follows:

*'66. Where a tribunal finds a doctor's fitness to practise is impaired, it can:*

*a. take no action (see paragraphs 68–70)*

*b...*

*c. impose conditions on the doctor's registration for up to three years (see paragraphs 79–90)*

*d. suspend the doctor's registration for up to 12 months (see paragraphs 91–106)*

*e. erase the doctor's name from the medical register, except in cases relating solely to a doctor's health and/or knowledge of English language (see paragraphs 107–111).*

### **Take no action**

*68. Where a doctor's fitness to practise is impaired, it will usually be necessary to take action to protect the public (see paragraphs 14–16). But there may be exceptional circumstances to justify a tribunal taking no action.*

*69. To find that a doctor's fitness to practise is impaired, the tribunal will have taken account of the doctor's level of insight and any remediation, and*

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*therefore these mitigating factors are unlikely on their own to justify a tribunal taking no action.*

*70. Exceptional circumstances are unusual, special or uncommon, so such cases are likely to be very rare. The tribunal's determination must fully and clearly explain:*

- a. what the exceptional circumstances are*
- b. why the circumstances are exceptional*
- c. how the exceptional circumstances justify taking no further action.'*

14. Mr Taylor submitted that there are no exceptional circumstances in this case and that action must be taken to mark Dr Mann's serious departure from GMP. He submitted that taking no action was not appropriate in this case.

15. Mr Taylor referred the Tribunal to paragraph 81 of the SG in relation to imposing conditions:

*81 Conditions might be most appropriate in cases:*

- a. involving the doctor's health*
- b. involving issues around the doctor's performance*
- c. where there is evidence of shortcomings in a specific area or areas of the doctor's practice*
- d. where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.*

16. Mr Taylor submitted that conditions would not be appropriate on the facts of this case. Further, he stated that, in any event the misconduct was too serious for conditions to be a proportionate response.

17. Mr Taylor referred the Tribunal to paragraphs 91, 92 and 93 of the SG in relation to imposing a suspension, as follows:

*'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 unbecoming 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.'*

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*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.'*

*'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.'*

18. Mr Taylor submitted that the appropriate sanction in this case is one of suspension. Mr Taylor submitted that a signal must be sent out to the doctor, the profession and the public about what is regarded as behaviour unbecoming a registered doctor so as to maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for members of the profession.

19. Mr Taylor stated that given Dr Mann's written statement and oral evidence the Tribunal can be satisfied that the misconduct is unlikely to be repeated.

20. Mr Taylor referred the Tribunal to paragraph 97 of the SG which deals with factors which may be present in a case where suspension is appropriate. He stated that subparagraphs (a), (f) and (g) are engaged in this case.

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

*a. A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.*

*b...*

*c...*

*d...*

*e...*

*f. No evidence of repetition of similar behaviour since incident.*

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*g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.'*

21. In relation to the period of suspension he referred the Tribunal to paragraphs 99-102 of the SG. Mr Taylor made no submission in relation to the period of suspension and stated that it was a matter for the Tribunal. However, Mr Taylor reminded the Tribunal of paragraph 100b and 100c:

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

*a ...*

*b. the seriousness of the findings and any mitigating or aggravating factors (as set out in paragraphs 24–60)*

*c. ensuring the doctor has adequate time to remediate..'*

22. Mr Taylor stated that as far as aggravating factors are relevant to the length of suspension, in the context of the seriousness of the findings, the Tribunal should consider the following paragraphs taken from the table on page 30 of the SG:

*'The extent to which the doctor departed from the principles of Good medical practice*

*The extent to which the doctor's actions risked patient safety or public confidence*

*The extent of the doctor's significant or sustained acts of dishonesty or misconduct.'*

23. Mr Taylor acknowledged the subsequent steps Dr Mann has taken in that he has shown clear remorse and regret, taken steps to remediate and shown insight.

24. Mr Taylor noted that this is not a conviction case, but he referred the Tribunal to paragraphs 116 and 117 of the SG. In terms of dishonesty Mr Taylor referred the Tribunal to paragraphs 120 onwards and specifically paragraphs 120 and 124:

*'120. Good medical practice states that registered doctors must be honest and trustworthy, and must make sure that their conduct justifies their patients' trust in them and the public's trust in the profession.*

*124. Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false*

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*statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.'*

25. Mr Taylor stated that this was not a case where paragraph 128 of the SG is engaged:

*'128. Dishonesty, if persistent and/or covered up, is likely to result in erasure (see further guidance at paragraph 120–128).'*

26. Mr Taylor concluded that given the nature of this offence by someone in Dr Mann's position, as a consultant psychiatrist, the gravity should be reflected in an appropriate and proportionate sanction, namely suspension.

27. On behalf of Dr Mann, Mr Gledhill agreed with the approach taken to the SG by Mr Taylor and adopted it as if it was his own submission.

28. Mr Gledhill submitted that the appropriate sanction in this case would be a short period of suspension of between one and three months, without a review.

29. Mr Gledhill stated that Dr Mann was of previous good character which should be given considerable weight. He reminded the Tribunal that this was an isolated incident which has not been repeated and stated that the risk of repetition is negligible if not nil.

30. Mr Gledhill told the Tribunal that Dr Mann recognises the seriousness of his misconduct and recognises that his serious departure from GMP needs to be marked with a sanction. Mr Gledhill stated that this could be marked by a period of suspension without a review and that erasure would be a step too far in all the circumstances.

31. In relation to mitigation Mr Gledhill stated that Dr Mann has undertaken a lot of soul searching to understand how his offence came about. He stated that Dr Mann explained that he has gone through an evolution of thinking in order to remediate and acknowledged that his journey of remediation will continue lifelong. Mr Gledhill stated that Dr Mann has significant insight into how he can avoid finding himself in the same position again. He reminded the Tribunal that since the index offence in February 2017 Dr Mann has in fact found himself in the same situation as that which led to the index offence and Dr Mann dealt with it appropriately. He reminded the Tribunal that Dr Mann has undertaken targeted CPD and completed significant work in the area of probity.

32. Mr Gledhill stated that Dr Mann is deeply ashamed and regretful of his misconduct but despite all that has happened this experience has caused a change in him for the better and has reinforced the need to adhere to appropriate standards. Mr Gledhill

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stated that Dr Mann clearly recognises that his misconduct does not just have an impact on him and his family but also on patients and the wider public's perception of his role.

### **The Tribunal's Approach**

33. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that the purpose of the sanctions is not to be punitive, but to protect patients and the wider public interest, although any sanction may have a punitive effect.

34. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Mann's interests with the public interest. The public interest includes, amongst other things, the protection of patients, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour.

35. The Tribunal has already given a detailed determination on impairment and it has taken those matters into account during its deliberations on sanction.

36. The Tribunal accepted the submissions in relation to the SG, as agreed by both parties. The Tribunal also accepted that both submissions clearly identified the key aggravating and mitigating factors in this case.

### **The Tribunal's Decision**

#### **No Action**

37. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Mann's case, the Tribunal first considered whether to conclude the case by taking no action.

38. The Tribunal considered that there are no exceptional circumstances in which it might be justified in taking no action against Dr Mann's registration. The Tribunal noted that Dr Mann did not advance any exceptional circumstances. The Tribunal determined that in view of the serious nature of Dr Mann's misconduct and the Tribunal's findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action. The Tribunal noted that Mr Gledhill realistically conceded this point on behalf of Dr Mann.

#### **Conditions**

39. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Mann's registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

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40. The Tribunal is of the opinion that a period of conditional registration would not adequately reflect the serious nature of Dr Mann's misconduct. Nor, in a case involving dishonesty of the sort seen in this case, could conditions be devised that would be appropriate. The Tribunal noted that Dr Mann realistically accepted that conditions would not be an appropriate and proportionate response to his misconduct.

41. The Tribunal has, therefore, determined that it would not be sufficient to direct the imposition of conditions on Dr Mann's registration.

### **Suspension**

42. The Tribunal then went on to consider whether suspending Dr Mann's registration would be appropriate and proportionate. The Tribunal has borne in mind that suspension has a punitive effect, although this is not its intention.

43. The Tribunal found Dr Mann's oral and written evidence to be impressive. He has clearly demonstrated that he has full insight and has taken all the steps he reasonably could have done at this stage to remediate his misconduct.

44. The Tribunal was also impressed by the oral and written evidence from Dr Mann's professional colleagues, which demonstrated that he is held in high regard and that no concerns regarding his probity or general conduct have been raised in any work setting.

45. The Tribunal considered that the risk of repetition of misconduct is, as Mr Gledhill submitted, negligible.

46. However, notwithstanding Dr Mann's insight and remediation, the Tribunal noted that the misconduct in this case was a serious departure from GMP. Dr Mann realistically accepted that fact.

47. The Tribunal considered the submissions of the parties and agreed that suspension is the proportionate sanction in this case. A period of suspension would serve to promote and maintain public confidence in the medical profession, and promote and maintain proper professional standards and conduct for the members of the profession.

48. The Tribunal was of the opinion that Dr Mann's misconduct, whilst serious, falls short of being fundamentally incompatible with continued registration.

49. The Tribunal considered the length of suspension and balanced on the one hand the fact that Dr Mann departed from a fundamental tenet of GMP by reason of his dishonesty, which impacted on public confidence in the profession, and on the

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other hand his mitigation, insight and remediation, and in particular the negligible risk of repetition.

50. In the circumstances the Tribunal determined to suspend Dr Mann's registration for a period of two months. The Tribunal considered that such a suspension would send a clear signal to Dr Mann, the profession and public about what is regarded as behaviour unbecoming a registered doctor, and would serve to promote and maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for the members of the profession.

51. Having been satisfied that Dr Mann has remediated his misconduct the Tribunal considered that in the particular circumstances of this case a review would not be necessary.

### **Erasure**

52. The Tribunal considered that Dr Mann's misconduct, although serious, was not fundamentally incompatible with continued registration and therefore erasure was not appropriate in this case.

### **Determination on Immediate Order - 29/11/2018**

1. Having determined that Dr Mann's registration be subject to suspension, 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**

2. On behalf of the GMC, Mr Taylor submitted that the GMC is not seeking an immediate order in this case as there is no risk to patient safety and Dr Mann has full insight and has remediated. Mr Taylor referred the Tribunal to paragraphs 172-178 in the SG. He stated that the decision to impose an immediate order is at the discretion of the Tribunal based on the facts of this particular case.

3. On behalf of Dr Mann, Mr Gledhill adopted Mr Taylor's submission as his own.

### **The Tribunal's Determination**

4. The Tribunal has determined that, given that there are no patient safety concerns, and it is not otherwise in the wider public interest, it is not necessary to make an order suspending his registration immediately.

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5. This means that Dr Mann’s registration will be suspended from the Medical Register 28 days from today, unless he lodges an appeal. If Dr Mann does lodge an appeal he will remain free to practise unrestricted until the outcome of any appeal is known.

**Confirmed**

**Date** 29 November 2018

Mr Paul Burns, Chair