

PUBLIC RECORD

Dates: 19/02/2024 - 27/02/2024

Medical Practitioner's name: Dr Rajeev REGHUNATH
GMC reference number: 6070369
Primary medical qualification: MB BS 2003 Tamil Nadu Dr MGR Med University

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

Summary of outcome

Erasure, immediate suspension, IOT revoked

Tribunal:

Legally Qualified Chair	Ms Joanne Shelley
Medical Tribunal Member:	Dr Jane Margetts, Dr Jill Edwards
Tribunal Clerk:	Miss Hinna Safdar

Attendance and Representation:

Medical Practitioner:	Not present, not represented
GMC Representative:	Ms Harriet Tighe, 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 - 23/02/2024

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

Background

2. Dr Reghunath qualified from The Tamil Nadu Dr. M.G.R. Medical University in Chennai, India in 2003. Dr Reghunath worked as a locum consultant psychiatrist in Greater Manchester Mental Health Foundation NHS Trust (GMMH) in the Trafford Division and was working there between January 2019 and February 2021 which is the period the Allegation relates to.

3. The Allegation that has led to Dr Reghunath's hearing can be summarised as between 8 April 2019 and 12 March 2021, he submitted timesheets in respect of hours worked at GMMH when he knew he had not worked those hours. It is also alleged that Dr Reghunath submitted timesheets on which he falsified the signature of Dr A and received payments to which he was not entitled. It is further alleged that Dr Reghunath's actions were dishonest.

4. The concerns were submitted to the GMC on 4 February 2022 by Dr B, the Medical Director of GMMH.

The Outcome of Applications Made during the Facts Stage

5. The Tribunal granted the GMC's application, made pursuant to Rules 15 and 40 of the General Medical Council (Fitness to Practice Rules) 2004 as amended ('the Rules'), that notice of this hearing had properly been served on Dr Reghunath. It also granted the GMC's application, made pursuant to Rule 31 of the Rules, to proceed with the case in Dr Reghunath's absence. The Tribunal's full decision on these applications is included at Annex A.

6. The Tribunal further granted GMC Counsel's application, made under Rule 34(1) of the Rules, to admit further evidence in the form of a witness statement which exhibited various documents, including a report from Mr C, a witness who was scheduled to provide oral evidence at the hearing. The Tribunal's full decision on the application is included at Annex B.

The Allegation and the Doctor's Response

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

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

1. Between January 2019 and February 2021, you worked as a locum doctor at Greater Manchester Mental Health Foundation NHS Trust ('GMMH').
To be determined
2. Between 8 April 2019 and 12 March 2021, you submitted:
 - a. timesheets in respect of hours worked at GMMH as set out in Schedules 1a and 1b; **To be determined**
 - b. timesheets purported to have been signed by Dr A as authorisation of hours worked at GMMH as set out in Schedule 2. **To be determined**
3. You knew that:
 - a. you did not work the hours claimed on the dates set out in:
 - i. Schedule 1a; **To be determined**
 - ii. Schedule 1b; **To be determined**
 - iii. Schedule 2. **To be determined**
 - b. on the dates referred to in:
 - i. Schedule 1a you were on annual leave; **To be determined**
 - ii. Schedule 1b and Schedule 2 you were out of the country and therefore not working for GMMH; **To be determined**
 - c. the timesheets set out in Schedule 2 had not been signed by Dr A; **To be determined**
 - d. you had falsified the signature on the timesheets set out in Schedule 2. **To be determined**
4. Your actions as described at paragraph 2 were dishonest by reason of paragraph 3. **To be determined**
5. As a result of your actions as set out paragraph 2, you received payments to which you knew you were not entitled. **To be determined**
6. Your conduct as set out at paragraph 5 was dishonest. **To be determined**

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

SCHEDULE 1a

DATE CLAIMED FOR	RATE PAID
21/12/2020	£2,399.98 (gross paid for the 3 days claimed for)
22/12/2020	
05/01/2021	

SCHEDULE 1b

8/04/2019	£680.00
9/04/2019	£425.00
11/04/2019	£680.00
3/06/2019	£680.00
4/06/2019	£680.00
5/06/2019	£340.00
6/06/2019	£680.00

SCHEDULE 2

DATE CLAIMED FOR	HOURS CLAIMED
Timesheet dated 12/03/2021 for week ending 14/03/2021	
12/03/2021	8 hours
11/03/2021	8 hours
10/03/2021	8 hours
09/03/2021	8 hours
08/03/2021	8 hours
Timesheet dated 15/03/2021 for week ending 07/03/2021	
05/03/2021	8 hours
04/03/2021	8 hours
03/03/2021	8 hours
02/03/2021	8 hours
01/03/2021	8 hours
Timesheet dated 03/03/2021 for week ending 28/02/2021	
26/02/2021	8 hours

25/02/2021	8 hours
24/02/2021	8 hours
23/02/2021	8 hours
22/02/2021	8 hours
Timesheet dated 24/02/2021 for week ending 21/02/2021	
19/02/2021	8 hours
18/02/2021	8 hours
17/02/2021	8 hours
16/02/2021	8 hours
15/02/2021	8 hours
Timesheet dated 24/02/2021 for week ending 14/02/2021	
12/02/2021	8 hours
11/02/2021	8 hours
10/02/2021	8 hours
09/02/2021	8 hours
08/02/2021	8 hours

The Evidence

Witness Evidence

8. The Tribunal received evidence on behalf of the GMC from the following witnesses:
- Mr C, an anti-fraud specialist working for Mersey Internal Audit Agency to undertake investigations for GMMH;
 - Dr A, a Consultant Psychiatrist with Psychiatry UK. At the time of the events, he worked as a Consultant Psychiatrist at GMMH and was the Lead Consultant for adults of working age.

Documentary Evidence

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

- Copies of Dr Reghunath’s timesheets for locum work so far as they related to the Allegation;
- WhatsApp messages between Dr Reghunath and Dr A, dated 7 February 2021 – 26 March 2021;
- Timeline of Claims and Payments made to Dr Reghunath prepared by Mr C;
- Restricted Investigation Closure Report, dated May 2022;
- Home Office MIDAS Travel Data Service – History Search Report, dated 13 May 2021.
- Emails between Dr Reghunath and Pulse Agency.
- Emails between Mr C and Ms D of GMMH payroll department.

The Tribunal’s Approach

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

11. As always, the Tribunal was reminded at the outset to have in mind the statutory overarching objective when exercising its function at every stage of proceedings.

Burden of Proof

12. The Tribunal heard detailed submissions from GMC Counsel, Ms Tighe, as to its position on how the evidence provided to this Tribunal should be considered, the weight to be apportioned to certain witness evidence, the credibility of those witnesses, the documentary evidence which may or may not support particular versions of events and the narrative and context of events related to the Allegation.

13. In its in-camera discussions, the Tribunal explored fully the relevant evidence both oral and documentary, and the weight to be given to that evidence and the submissions made.

Cogency

14. In doing so the Tribunal had regard to the case of *Byrne v General Medical Council [2021] EWHC 2237 (Admin)* which confirmed the principle that there is only one standard of proof in civil and regulatory cases and that is proof that the fact in issue more probably occurred than not.

15. Neither the seriousness of the allegation nor the seriousness of the consequences should make any difference to the standard of proof to be applied.

16. The Tribunal was however reminded that they require cogent evidence of dishonesty before dishonesty is found (*Lawrance v GMC [2015] EWHC 586 (Admin)*) (cited with approval in *McLennan v GMC [2020] CSIH 12* at 74 *but that does not detract from legal proposition that in determining whether a crucial fact including dishonesty is to be found remains the balance of probabilities.*

17. The Tribunal considered each of the particulars of the Allegation separately and asked itself whether the GMC had proved the facts alleged to its satisfaction.

Inferences/Speculation

18. As to individual pieces of evidence, the Tribunal is entitled to draw proper inferences, that is to come to common sense conclusions based upon the evidence which it accepts as reliable; but it must not speculate. Similarly, it must not speculate about what other evidence there might have been. The Tribunal should only draw an inference if it can safely exclude other possibilities *Soni v GMC (2015) EWAC 0364 Admin (Soni case).*

Credibility of Witnesses

19. The Tribunal reminded itself that it should have regard to the whole of the evidence and form its own judgement about the witnesses, and which evidence is reliable, and which is not. It is up to the Tribunal to decide what weight it attaches to the witness evidence.

20. The Tribunal had regard to the case of *R (on the application of Dutta) v GMC [2020] EWHC 1974 (Admin)*. The Tribunal should make a rounded assessment of a witness's reliability, rather than approaching their reliability in respect of each charge in isolation from the others. The Tribunal should not assess a witness's credibility exclusively on their demeanour when giving evidence, but their veracity should be tested by reference to objective facts proved independently in their evidence, in particular by reference to the documents in the case.

21. The Tribunal had regard to the case of *Khan v The General Medical Council [2021] EWHC 374 (Admin)*. It is open to Tribunals not to rule out the whole of a witness's evidence based on credibility; credibility can be divisible.

22. A matter that the Tribunal also bore in mind when considering the evidence of any witness in this case, is the extent to which the passage of time may have affected a witness's memory. We will be aware from our own experience that memories can fade with the passage of time, and that recollections may change, or may become confused, as to what did

or did not happen at a particular time. We should make due allowance for the way in which the passage of time may have created difficulties for the witnesses giving evidence in these proceedings.

23. In relation to witnesses generally, the Tribunal bore in mind that an honest witness can be mistaken, and a mistaken witness is not necessarily wrong about every fact.

Dishonesty

24. In relation to the allegation of dishonesty, the Tribunal had regard to the case of *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords) [2017] UKSC 67* which sets out a two-limb test (Ivey Test) as follows:

'74 When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'

25. The Tribunal was reminded that they require cogent evidence of dishonesty before dishonesty is found (*Lawrence v GMC [2015] EWHC 586 (Admin)*) (cited with approval in *McLennan v GMC [2020] CSIH 12* at 74 as referred to above.

26. A finding of dishonesty is one of the most serious a Tribunal can make and requires careful consideration and careful reasoning (*Quereshi v GMC [2015] EWHC 3729 Admin* at 45-46.

The Tribunal's Analysis of the Evidence

Background

Pulse

27. Dr Reghunath initially provided services to the Trust as a locum consultant psychiatrist via an agency, called Pulse Healthcare Limited (Pulse). The process for claiming payment for hours worked by him at GMMH was that he would submit his timesheets for authorization i.e., sign off to his lead consultant and once they were signed, he would submit these

approved timesheets to Pulse who would raise an invoice to GMMH and arrange payment to Dr Reghunath.

28. From 2019, the arrangements through which Dr Reghunath received payments from GMMH changed to what is referred to as the 'Direct Engagement Model'. Dr Reghunath submitted his timesheets for authorisation i.e., sign-off to his lead consultant as before and, once they were signed, he would submit them to Pulse. Under the new arrangement, Pulse would submit the timesheets to NHS professionals and GMMH payroll would pay Dr Reghunath direct.

29. This process was explained in an email from Ms E, the Medical Workforce Lead at the GMMH to the GMC, she sets out the process for agency workers Dr Reghunath would have been following.

30. Dr Reghunath provided his services to GMMH in the Trafford Division and whilst, particularly during the Covid 19 pandemic, he may have provided some services via video or telephone consultations, the Tribunal bore in mind that it had no evidence before it to suggest that Dr Reghunath was contracted or authorised to carry out his work from anywhere other than the Greater Manchester area and not whilst outside the UK.

Annual Leave

31. Following the change to direct engagement, Dr Reghunath worked under a Temporary Worker Contract in which the Tribunal noted there is a clause for Holiday Pay, which states:

"7.3 Your holiday entitlement will not be paid as a separate payment at the time of each holiday, but will be paid to you by increasing your normal pay by 13.70% which will be referred to your pay slips. For the avoidance of doubt, the hourly rate referred to in your booking confirmation already contains the 13.70% uplift."

32. The Tribunal concluded that Doctor providing services under the Direct Engagement model could not claim payments for holidays as such payment was already included in the rates agreed to be paid to a Doctor for the services they provide. This was confirmed by Dr A in his oral evidence.

Witness credibility

33. The Tribunal accepted that Mr C was an honest witness who was doing his best to assist the Tribunal. By his own admission, during his oral testimony when answering

questions from the Tribunal there had been some omissions and, in his words, “oversights” in the production of certain entries in his timeline document. The Tribunal did not however consider that such omissions rendered the remainder of his evidence unreliable and reminded itself that credibility can be divisible. There were parts of his evidence and documents provided by him that were relied upon by the Tribunal as part of the factual matrix used to reach the decisions made as set out below.

34. The Tribunal found Dr A credible in his oral evidence. While having admitted in his witness statement when questioned by the Mersey Internal Audit Team that he could be absent minded, he was thorough in his evidence. Having been presented with signatures that may not have been his own, he explained he had carried out further checks on his working dates and his paper book. The Tribunal also noted that the incident set out in the Allegation in Schedule 2 was during the COVID-19 pandemic, when doctors provided services during unprecedented times.

WhatsApp Messages

35. Dr A exhibited to his witness statement copies of his contact details information for Dr Reghunath from his mobile phone and copies of a series of WhatsApp messages between him and Dr Reghunath from 8 February 2021 to 26 March 2021.

36. Dr Reghunath, in an email to the MPTS on 4 March 2022, tried to suggest that these WhatsApp messages were not genuine and not from him as his name was misspelt as “Rajeev Raganath”. When this was put to Dr A in his oral evidence, he stated that this had been a mistake on his part as he has spelt Dr Reghunath’s name incorrectly when saving him as a contact in his phone.

37. Furthermore, the Tribunal considered the nature of the messages and determined that they contained information of a confidential nature that only Dr Reghunath would have known. The Tribunal therefore found it was implausible that these were not genuine messages between Dr A and Dr Reghunath.

The Tribunal’s Application of the Evidence

38. The Tribunal considered the evidence provided to it in relation to each of the Schedules set out in the Allegation.

Schedule 1(a)

39. The Tribunal did not have copies of timesheets for these dates however, it was provided with a timeline of claims that were made by Dr Reghunath. These dates were present on that timeline.

40. Whilst the timeline did not show the amounts of any payments made on either the 21, 22 December 2020 or 5 January 2021, there was a redacted entry in the payment section of the timeline next to the entry for 21 December 2021. Following questions of Mr C by the Tribunal, it was provided with unredacted copies of email correspondence from April 2021 between Mr C and Ms D, the Payroll Team Leader at GMMH at the time.

41. In this correspondence, Mr C requested information regarding payments made for the 21 December 2020, 22 December 2020, and 5 January 2021. Ms D replied that Dr R, *“claimed to have worked 8 hours shifts for each of the days you have stated. The total gross amount claimed for the hours +WTD was £3999.97 with a net take home payment of £2442.19.”*

42. The Tribunal noted that the sums referred to in the above email did not correspond with the sums claimed in Schedule 1(a) but noted the total sum referred to payments for 5 shifts whereas the sum in Schedule 1(a) relate to only 3 shifts.

43. The Tribunal then considered an email sent from Dr Reghunath to Debra Ikin, a member of staff at GMMH, in which Dr Reghunath writes, *“22/12 – most likely I will be off that Monday and Tuesday ... 5th of Jan 2021 – most likely I will be off on Monday and Tuesday, but not confirmed yet !”*

44. In his Investigative Report, Mr C writes,

“3.5 In further conversations with RR’s [Dr Reghunath’s] management, concerns were raised about a number of other days claimed to have been worked in December 2020 and January 2021.

3.6 RR and Pulse Agency had conversations with RR over email and text message regarding the submitted timesheets in which he admits to not being entitled to have been paid for the shifts. RR offers to repay the overpaid monies in full.

... Due to the concerns raised by management about the dates in December 2020 and January 2021 copies of the timesheets for those months were also requested.

There were also days claimed over Christmas in 2020 that were not worked as well as days in early January 2021. These days were not worked due to annual leave and therefore, RR should not have claimed for them.”

45. The Tribunal found that, on the balance of probabilities, the evidence that Dr Reghunath had taken annual leave on 5 January 2021 was inconsistent. Unlike the 21 and 22 December 2020 dates, there was no evidence of confirmation of 5 January 2021 date for annual leave and no evidence of cover arrangements provided to the Tribunal.

Schedule 1(b)

46. The Tribunal considered the timesheets provided for the dates in Schedule 1(b).

47. The Tribunal once again referred to the timeline of claims made by Dr Reghunath and found some of the entries listed at Schedule 1(b) were present in this timeline i.e. 8 April 2019 and 11 April 2019 together with the sums paid, but there was no corresponding entry for 9 April 2019. Furthermore, the entries for June 2019 showed entries and payments made for the 3 and 6 June but not the 4 and 5 June 2021.

48. The Tribunal also compared the entries at Schedule 1(b) to the History Search Report from the Home Office and noted these were all dates when Dr Reghunath was not registered as having been in the UK. It is listed on the History Search Report that Dr Reghunath had checked in for a flight which was confirmed to have departed to Turkey from Manchester on 6 April 2019 and had then checked in on 13 April 2019 for a return flight. However, he had made a claim for payment on 8, 9 and 11 April 2019, during which time, from this History Search Report, it would appear Dr Reghunath was not in the UK and therefore not providing services to GMMH.

49. Similarly, it is listed on the History Search Report that Dr Reghunath had checked in for a flight which was confirmed to have departed to the United Arab Emirates from Manchester on 24 May 2019 and had then checked in on 9 June 2019 for a return flight. However, he had made a claim for payment on 3, 4, 5 and 6 June 2019, during which time, from this History Search Report, it would appear Dr Reghunath was not in the UK and therefore not providing services to GMMH.

50. The Tribunal then considered Mr C’s Investigative Report, in which he stated,

“4.2 Due to the trend of RR claiming for shifts when he was off work or not in the country, the AFS requested details of RR’s annual leave records and it was found that there were days claimed to have been worked but they were not.

..... There were two instances within the claims made that RR was not in the country as the Home Office data showed that he had flown to Abu Dhabi and Dalaman at times when he had claimed to have been working for GMMH.”

51. In his oral evidence, it was put to Mr C why there were missing items or dates shown in the timeline he had provided, which Mr C replied had been an *“oversight.”*

52. The Tribunal noted that Dr Reghunath had submitted a timesheet for the 9 April on the same timesheet that he claimed payments for the 8 and 11 April. Given the payments made for the claims dated 8 and 11 April 2019 the Tribunal considered it more likely that he had also received payment for 9 April as well and there was no evidence showing any refusal for a payment of this one part of his timesheet.

53. Similarly Dr Reghunath had submitted a timesheet with a claim for 4 and 5 June 2019, alongside the 3 and 6 June. The Tribunal considered that, as it had evidence that he had received payment for 3 and 6 June, Dr Reghunath was more likely to have received payment for the 4 and 5 June as well. There was no evidence showing any refusal for payment of this part of his timesheet.

54. Dr A explained in his evidence that he would not have expected to receive timesheets to cover any holiday periods. A timesheet was only required to claim payment for hours worked.

55. In any event Dr Reghunath was not required to make claims for payment of annual leave as any entitlement for annual leave payment was already included in his hourly rate agreed with GMMH.

Schedule 2

56. The Tribunal first noted that it had sight of timesheets for all of these dates claimed for.

57. In Mr C’s Investigative Report, he stated, *“... The AFS [Anti-Fraud Specialist] was able to confirm with the Home Office that RR left London Heathrow on 7.2.2021 bound for*

Bangalore” and “4.3 Regular checks with the Home Office have been made and RR has not returned to the UK since leaving in February 2021.”

58. The Tribunal compared this to the Home Office’s History Search Report and noted that as of 13 May 2021, Dr Reghunath had not checked in for any flights since an outbound flight from London Heathrow to Bangalore India on 7 February 2021.

59. The Tribunal considered that this was corroborated by WhatsApp messages sent to Dr A on 7 February 2021, that stated “*I will be taking some time off [Dr A], to sort this out...I will get back to soon with possible dates, after checking if I/we can fly- India has a strict restrictions on people flying from the UK due to the new strains.*” Subsequently, on 9 February 2021, Dr A received a message saying, “*I will need 2-3 weeks time to get back to work as I have now managed to get myself to India.*” The Tribunal accepted the WhatsApp chain as credible evidence.

60. The Tribunal then referred to the timeline of claims made by Dr Reghunath and found all the entries and respective payments listed at Schedule 2 present in this timeline.

61. The Tribunal had sight of WhatsApp messages provided from Dr A, between himself and Dr Reghunath in relation to timesheets being submitted for time not worked by Dr Reghunath and such timesheets not being authorised by Dr A. The exchange was as follows:

25 March 2021

Dr A: “*Hi Rajeev, I have been in contact with [Ms E] from medical staffing about you sending timesheets for time not worked. We are looking for someone else for your post. Please get in touch if you would like to discuss.*”

26 March 2021

Dr Reghunath: “*It was a mistake from my end [Dr A], apologies and do let medical staffing to let me know how I can pay it back to their account. XXX... so not anticiapting my return anytime soon.*”

Dr A: “*XXX. Why did you send those timesheets when you were not in work?*”

Dr Reghunath: “*The agency said I am entitled to some holiday pay as I am now working directly for the Trust.*

I know it's a grave and terrible thing to do, when I found out I may not have much to go with... not thinking straight, not giving any excuses, just a big sorry.”

Dr A: “*The other thing is that the handwriting on the forms is not mine.*”

Dr Reghunath: *"I said it's a grave mistake I made [Dr A] and is ready to take any punishment for that, as it's me who did the mistake. Pls do let me know how I can repay every last penny I made and also feel free to report me to the Trust/GMC as you please, it's my mistake and take full responsibility for all the mistakes.*

Whatever you decide to do, I will take that as my penance ... so anything bad, I am willing to take now."

Dr A: *"I hope things work out well for you Rajeev."*

Dr Reghunath: *"Thanks [Dr A], do let me know however you want to proceed, also do forward me the details of the acct I can pay back the money owed"*

62. The Tribunal also noted that Dr Reghunath had sent an email to Pulse, explaining that Dr A was not available during these dates relating to the timesheets in Schedule 2. He stated,

"Hi there,

I haven't managed to get last week's time sheet authorised yet; will forward it as soon as I manage to get it done.

Sorry for the delay, not sure if it will be authorised anytime today (as the lead consultant is off!)

Will keep you posted

Regards

Rajeev"

63. The Tribunal also took into account Dr A's evidence where he was adamant, based on the signature, that he had not signed these timesheets from February and March 2021. Dr A is not a handwriting expert, and he stated this in his oral evidence however, he did his best to assist the Tribunal to explain why it was his belief that the signatures on the Schedule 2 timesheets were not produced by him (or authorised) by him.

64. He took the Tribunal to timesheets that he did believe were signed by him, namely the weeks ending 15 April 2019 and 11 June 2019. He explained why, on a side-by-side comparison, he did not believe that the timesheets relating to the entries in Schedule 2 were signed by him. He explained that it was his usual practise to use a shorthand signature on timesheets and there would usually be a "dot" after the XXX and after the "stylized" XXX. On the timesheet dated 15 April 2019, there may have been a vague dot, but the copy was not clear. Whereas, on the timesheet from 11 June 2019, there was a clear dot. The Tribunal accepted that in the signatures box on the timesheets relating to Schedule 2, such as the timesheet for 24 February 2021, the dots in the signature box were missing.

65. Dr A explained that his printed name on the timesheet from 15 April 2019 and 11 June 2019 link the XXX and the XXX in Dr A's signature while the last XXX is standalone. In terms of the date, the day, month, and year of the date were separated by the use of a dot. However, on the timesheets relating to the dates in Schedule 2, such as 24 February 2021, it was noted that in the printed signature section, the last XXX is not standalone and is linked with the XXX before. Also, on the timesheet dated 12 March 2021, the day, month and year of the date are separated by slashes.

66. Dr A stated that it was his usual practise to use a wet ink signature, but he did have the facility to use an electronic signature if required. This became a particularly useful tool during the COVID-19 pandemic. In his evidence, he explained that he did not think the signatures on the timesheets relating to the dates in Schedule 2 were his. In addition, Dr A was not working on some of the dates provided. He made the point that he would sign the timesheets on Fridays after team meetings, and the dates shown on Dr Reghunath's timesheets in February and March 2021 were either dates he was not in work or dates he would not be signing timesheets.

67. Whilst the Tribunal noted the suggestion that timesheets before being authorized and signed off by Dr A were cross checked against a paper book diary system he operated which was used by him to keep track of who was working what hours and where (Frankenstein model), during Tribunal questions it became apparent that this was not a paper book system that was used every time a timesheet was signed off by Dr A. Dr A's explanation was that having to cross-check every timesheet against the paper book diary system, particularly during the COVID-19 pandemic, were a waste of his time. He did admit, on occasion, he would carry out a cross-check. He said in his oral evidence, *"I would only check if I had doubt, if it didn't quite fit. If I saw something, I would check."*

68. Dr A stated that he believed the signatures on the timesheets dated 15 April 2019 and 11 June 2019 are wet signatures because when he signs electronically, his name is typed underneath rather than written. He said he would not print, sign, and rescan. He added that this would be a waste of time and a waste of paper. He said that he had *"no uncertainty. The signatures do not look like mine, the dates don't look like mine."* Dr A added that his secretary also told him that these disputed dates were not signed by him.

69. Leaving aside the authorized signature box, the Tribunal considered whether it could have been that the 'print your name' box and the 'date of the timesheet' box, it may be that these may have been pre-completed by Dr Reghunath. This may be an explanation as to why the dates and printed name were different to those usually inputted by Dr A. The Tribunal

put this to Dr A, who confirmed that this was not the usual practise for previous timesheets from Dr Reghunath. That is consistent with the timesheets that Dr A does accept were signed by him as he states he filled in the 'print your name' and 'date' box himself. The Tribunal also noted that Dr A stated that he appreciates his signature is not difficult to replicate.

70. The Tribunal noted that the direct engagement payment system had been in place since 2019. Dr Reghunath, in an email to the GMC, stated that he had put in the timesheets whilst he was in India as he was entitled to holiday pay under direct engagement. However, the Tribunal considered that the trip to India was not standard annual leave but instead was emergency compassionate leave. Dr A in his oral evidence confirmed that, in such circumstances, paperwork would have been completed on the doctor's return to work.

The Tribunal's Findings

71. Having considered and analysed all of the evidence before it, the Tribunal applied this to the Allegation.

Paragraph 1

72. The Tribunal considered it a finding of fact that Dr Reghunath had worked as a locum doctor at GMMH between January 2019 and February 2021.

73. It therefore found Paragraph 1 of the Allegation proved.

Paragraph 2(a)

74. The Tribunal considered whether between 8 April 2019 and 12 March 2021, Dr Reghunath had submitted timesheets as set out in Schedule 1(a) and 1(b).

75. In terms of Schedule 1(a), the Tribunal has not seen the timesheets for the dates relating to it. However, the Tribunal has the report from Mr C that timesheets were put in and an email exchange confirming that payments to Dr Reghunath were made. The Tribunal considered that the only way Dr Reghunath could have received payment through the agency would have been if a timesheet was provided. The Tribunal noted that Dr Reghunath had received payment for each date alleged. It therefore inferred that a timesheet for the dates set out in Schedule 1(a) must have been submitted.

76. In terms of Schedule 1(b), the Tribunal was provided with copies of the timesheets submitted by Dr Reghunath.

77. It therefore found Paragraph 2(a) of the Allegation proved.

Paragraph 2(b)

78. The Tribunal had sight of timesheets that were purported to have been signed by Dr A.

79. It therefore found Paragraph 2(b) of the Allegation proved.

Paragraph 3(a)

80. The Tribunal considered whether Dr Reghunath knew that he had not worked the hours set out in Schedules 1(a), 1(b), and 2.

Paragraph 3(a)(i)

81. The Tribunal noted that Schedule 1(a) related to the dates between December 2020 and January 2021.

82. The Tribunal accepted as a factual point that on 21 and 22 December 2020, Dr Reghunath notified Dr A that he was on annual leave, and he arranged cover.

83. There was no evidence whether Dr Reghunath had worked on 5 January 2021 so the Tribunal excluded this date.

84. It therefore found Paragraph 3(a)(i) of the Allegation proved save for the Allegation so far as they relate to 5 January 2021.

Paragraph 3(a)(ii)

85. The Tribunal noted that Schedule 1(b) related to the dates between April and June 2019.

86. The Tribunal noted that the evidence shows that Dr Reghunath was out of the UK in Dalaman in April and in Abu Dhabi in June.

87. The Tribunal considered, that as Dr Reghunath was out of the UK on holiday that he had knowledge that he had not worked the hours he had claimed as set out in Schedule 1(b). It therefore found Paragraph 3(a)(ii) of the Allegation proved.

Paragraph 3(a)(iii)

88. The Tribunal noted that Schedule 2 related to the dates between February and March 2021.

89. The Tribunal accepted the evidence that Dr Reghunath was in India from 8 February 2021 to date. They decided Dr Reghunath knew that he had not worked the hours claimed as he was not providing services to GMMH outside the UK.

90. The Tribunal therefore found Paragraph 3(a)(iii) of the Allegation proved.

Paragraph 3(b)

91. The Tribunal considered whether Dr Reghunath knew that on the dates referred to in Schedule 1(a) he was on annual leave, and in Schedule 1(b) and Schedule 2, he was out of the country and therefore not working for GMMH.

Paragraph 3(b)(i)

92. The Tribunal had sight of the email sent from Dr Reghunath in which he stated, *“22/12 – most likely I will be off that Monday and Tuesday ... 5th of Jan 2021 – most likely I will be off on Monday and Tuesday, but not confirmed yet !”*

93. It also noted that in the Investigative Report, Mr C stated, *“There were also days claimed over Christmas in 2020 that were not worked as well as days in early January 2021. These days were not worked due to annual leave and therefore, RR should not have claimed for them.”*

94. These were relating to the dates in Schedule 1(a) which Dr Reghunath received payment for, as set out above. The Tribunal considered that Dr Reghunath knew that he was on annual leave for these dates, was not entitled to payment and therefore found Paragraph 3(b)(i) proved save for the Allegation so far as they relate to 5 January 2021.

Paragraph 3(b)(ii)

95. The Tribunal had sight of the History Search Report which set out that Dr Reghunath had checked in for a flight to Turkey on 6 April 2019 and had not checked in to a flight back to Manchester until 13 April 2019. It also noted that he had checked in for a flight to the United Arab Emirates on 24 May 2019 and had checked in for a flight to return to Manchester on 9 June 2019. These dates corresponded with the dates he submitted timesheets for in Schedule 1(b).

96. The Tribunal also noted on the History Search Report that on 7 February 2021, Dr Reghunath had checked in for a flight to Bangalore India and had not checked in for any return flights to Manchester. All the dates in Schedule 2 are for timesheets submitted for 8

February 2021 onwards. Mr C gave evidence that he had regularly checked with the Home Office since and to date he had not received any confirmation that Dr Reghunath had returned to the UK.

97. The Tribunal therefore found Paragraph 3(b)(ii) of the Allegation proved.

Paragraph 3(c) and Paragraph 3(d)

98. The Tribunal considered Paragraph 3(c) and 3(d) of the Allegation together. It considered whether Dr Reghunath knew that the timesheets set out in Schedule 2 had not been signed by Dr A and that Dr Reghunath had falsified Dr A's signature on these timesheets.

99. The Tribunal had sight of an email from Dr Reghunath to Pulse in which he stated his timesheets may be delayed as Dr A was 'off'. This supported Dr A's evidence that he was not available to sign off or authorise Dr Reghunath timesheets on that date.

100. It also considered the WhatsApp messages between Dr Reghunath and Dr A in which Dr A puts to Dr Reghunath that the signatures on the timesheets relating to Schedule 2 were not his and Dr Reghunath states, *"I made a grave mistake"*, implying that he knew the signatures were not Dr A's. He said in the WhatsApp message to Dr A, *"I said it's a grave mistake I made [Dr A] and is ready to take any punishment for that, as it's me who did the mistake. Pls do let me know how I can repay every last penny I made and also feel free to report me to the Trust/GMC as you please, it's my mistake and take full responsibility for all the mistakes.*

Whatever you decide to do, I will take that as my penance ... so anything bad, I am willing to take now."

101. The Tribunal also noted Dr A's evidence in relation to the signing off of the timesheets, as set out above. Dr A did not believe that he had signed off the timesheets. The Tribunal accepted Dr A's evidence as credible and concise on this issue.

102. The Tribunal therefore found Paragraph 3(c) and 3(d) of the Allegation proved.

Paragraph 4

103. The Tribunal considered whether Dr Reghunath's actions in Paragraph 2 of the Allegation were dishonest by reason of Paragraph 3 of the Allegation.

104. The Tribunal reminded itself that in accordance with the Ivey Test the Tribunal must ask itself three questions. Firstly, whether Dr Reghunath acted in the way that is alleged by the GMC on the balance of probabilities. Secondly, what was the genuine knowledge or belief of Dr Reghunath regarding the facts at the relevant time? Finally, whether the actions of Dr Reghunath would be considered dishonest by the standards of ordinary and decent people.

105. The Tribunal considered that the GMC were asking them to infer that, on the balance of probabilities, Dr Reghunath's actions in submitting timesheets for hours that he had not worked, during periods of time when he knew he was on annual leave, was dishonest. Furthermore, in relation to the Schedule 2 timesheets, submitting timesheets he knew Dr A had not signed and falsifying the signature on those timesheets was dishonest. In order to infer Dr Reghunath's actions amounted to dishonesty, the Tribunal excluded as less than probable any other explanation for his actions.

106. In considering other explanations, the Tribunal noted that Dr Reghunath, when submitting the timesheets, set out in Schedule 1(a), knew he was on annual leave on 21 and 22 December 2020, and had in fact arranged cover for these dates.

107. In relation to Schedule 1(b) and 2, the Tribunal noted that Dr Reghunath was out of the country. He knew that he was in Turkey and the United Arab Emirates when he submitted the timesheets that relate to the dates in Schedule 1(b). Further, he was in India when he submitted the timesheets that relate to the dates in Schedule 2.

108. The Tribunal considered whether Dr Reghunath held the mistaken belief that he was able to claim payment whilst he was on annual leave or out of the country. However, the Tribunal determined he did not make the suggestion that he thought he was entitled to holiday pay until the submission of the timesheets was challenged by Dr A in the WhatsApp messages. Dr Reghunath did not state at any point on the timesheets relating to the dates in Schedule 1(b) and 2 that he was on holiday or out of the country. In addition, the Tribunal noted that on the timesheets dated 15 April 2019 and 11 June 2019 included hours worked and days marked as "DAY OFF". The Tribunal considered that this had the hallmark of being fabricated timesheet entries, given that Dr Reghunath was out of the country for the entire period set out in the timesheets.

109. In relation to Schedule 2, the Tribunal noted that, whilst he was in India, Dr Reghunath did not inform Pulse that he was out of the country. Furthermore, the Tribunal, having found that Dr Reghunath falsified the signatures on the timesheets, decided that he

was fully aware that he should not have been submitting timesheets whilst on annual leave or out of the country.

110. The Tribunal decided that, on the balance of probabilities, Dr Reghunath did not believe that he was entitled to claim hours worked when on annual leave or when out of the country and therefore not working for GMMH for the reasons set out above.

111. The Tribunal did not accept that Dr Reghunath's unsubstantiated reference to XXX had affected his knowledge or belief in relation to the submission of his timesheets in Schedule 2.

112. The Tribunal also had regard to his admissions in the WhatsApp messages and the invitation for Dr A to report his actions to the Trust/GMC and he was ready to accept his punishment and his offer to repay monies in his messages to Dr A and emails to Pulse.

113. On this basis, the Tribunal decided that he had acted as alleged by the GMC and had genuine knowledge regarding those facts alleged at the time that he claimed and received monies that he was not entitled to and, in respect of the Schedule 2 timesheets, falsified Dr A's signature.

114. The Tribunal went on to consider whether the actions of Dr Reghunath would be considered dishonest by the standards of ordinary and decent people. The Tribunal decided that ordinary decent people would consider that Dr Reghunath's actions amounted to dishonesty. They decided that ordinary decent people would consider that a doctor submitting timesheets for hours worked when he knew he was on holiday and not working, falsifying Dr A's signature in relation to the timesheets relating to Schedule 2, and receiving payment from the NHS which he was not entitled to was unacceptable and dishonest.

115. The Tribunal considered that, having found that Dr Reghunath knew he had not worked for the hours he had claimed on Schedules 1(a), 1(b), and 2 (save for 5 January 2021) and had falsified Dr A's signature on the timesheets in relation to the dates set out in Schedule 2, this was conduct that the ordinary person would find was dishonest.

116. In light of its findings in respect to Paragraphs 2 and 3 of the Allegation, and applying the test for dishonesty, the Tribunal was satisfied that the subjective and objective test in Ivey was met. Therefore, the Tribunal concluded that Dr Reghunath actions were dishonest.

117. The Tribunal therefore found Paragraph 4 of the Allegation proved.

Paragraph 5

118. The Tribunal considered whether, as a result of Dr Reghunath's actions as set out in Paragraph 2 of the Allegation, he received payments to which he knew he was not entitled.

119. The Tribunal considered that by submitting timesheets relating to the dates set out in Schedule 1(a), 1(b) and 2, Dr Reghunath had received payments to which he knew he was not entitled, save for in relation to 5 January 2021.

120. The Tribunal was not satisfied that Dr Reghunath believed he was entitled to holiday pay, having considered the Temporary Contract, the evidence of Dr A, as well as the timesheets in which Dr Reghunath distinguished when he was having a "DAY OFF", as set out above.

121. The Tribunal therefore found Paragraph 5 of the Allegation proved save for so far as the Allegation relate to 5 Jan 2021.

Paragraph 6

122. The Tribunal considered whether Dr Reghunath's conduct as set out in Paragraph 5 of the Allegation was dishonest.

123. The Tribunal reminded itself that in accordance with the Ivey Test the Tribunal considered that it must ask itself three questions. Firstly, whether Dr Reghunath acted in the way that is alleged by the GMC on the balance of probabilities. Secondly, what was the genuine knowledge or belief of Dr Reghunath regarding the facts at the relevant time? Finally, whether the actions of Dr Reghunath would be considered dishonest by the standards of ordinary and decent people.

124. The Tribunal considered that the GMC were asking them to infer that, on the balance of probabilities, Dr Reghunath's actions in submitting timesheets for hours that he had not worked, during periods of time when he knew he was on annual leave, was dishonest. Furthermore, in relation to the Schedule 2 timesheets, submitting timesheets he knew Dr A had not signed and falsifying the signature on those timesheets was dishonest. In addition, Dr Reghunath receiving payments to which he knew he was not entitled was dishonest. In order to infer Dr Reghunath's actions amounted to dishonesty, the Tribunal excluded as less than probable any other explanation for his actions.

125. The Tribunal accepted that Dr Reghunath knew that he was submitting timesheets and claiming payments when he was on annual leave or out of the country, as set out above.

126. The Tribunal considered whether Dr Reghunath held the mistaken belief that he was able to claim payment whilst he was on annual leave or out of the country. However, the Tribunal determined he did not make the suggestion that he thought he was entitled to holiday pay until the submission of the timesheet was challenged by Dr A in the WhatsApp messages. Dr Reghunath did not state at any point on the timesheets relating to the dates in Schedule 1(b) and 2 that he was on holiday or out of the country. In addition, the Tribunal noted that the timesheets dated 15 April 2019 and 11 June 2019 included hours worked and days marked as “DAY OFF”. The Tribunal considered that this had the hallmark of being fabricated timesheet entries, given that Dr Reghunath was out of the country for the entire period set out in the timesheets.

127. In relation to Schedule 2, the Tribunal noted that, whilst he was in India, Dr Reghunath did not inform Pulse that he was out of the country. Furthermore, the Tribunal, having found that Dr Reghunath falsified the signatures on the timesheets, decided that he was fully aware that he should not have been submitting timesheets whilst on annual leave or out of the country.

128. The Tribunal decided that on the balance of probabilities Dr Reghunath did not believe that he was entitled to claim hours worked or claim payment when on annual leave or out of the country for the reasons set out above.

129. The Tribunal did not accept that Dr Reghunath’s unsubstantiated reference to XXX had affected his knowledge or belief in relation to the submission of his timesheets in Schedule 2.

130. The Tribunal also had regard to his admissions in the WhatsApp messages and the invitation for Dr A to report his actions to the Trust/GMC and he was ready to accept his punishment and his offer to repay monies in his messages to Dr A and emails to Pulse.

131. On this basis, the Tribunal decided that he had acted as alleged by the GMC and had genuine knowledge regarding those facts alleged at the time.

132. The Tribunal went on to consider whether the actions of Dr Reghunath would be considered dishonest by the standards of ordinary and decent people. The Tribunal decided that ordinary decent people would consider that Dr Reghunath’s actions amounted to

dishonesty. They decided that ordinary decent people would consider that a doctor submitting timesheets for hours worked when he knew he was on holiday and not working, falsifying Dr A's signature on timesheets relating to dates in Schedule 2 and receiving payments from the NHS which he was not entitled to was unacceptable and dishonest.

133. The Tribunal considered that, having found that Dr Reghunath knew he had not worked for the hours he had claimed on Schedules 1(a), 1(b), and 2 (save for 5 January 2021) and had falsified Dr A's signature on the timesheets relating to dates set out in Schedule 2, this was conduct that the ordinary person would find was dishonest.

134. In light of its findings in respect to Paragraphs 2, 3 and 5 of the Allegation, and applying the test for dishonesty, the Tribunal was satisfied that the subjective and objective test in Ivey was met. Therefore, the Tribunal concluded that Dr Reghunath actions were dishonest.

135. The Tribunal therefore found Paragraph 6 of the Allegation proved.

The Tribunal's Overall Determination on the Facts

136. The Tribunal has determined the facts as follows:

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

1. Between January 2019 and February 2021, you worked as a locum doctor at Greater Manchester Mental Health Foundation NHS Trust ('GMMH').

Determined and found proved

2. Between 8 April 2019 and 12 March 2021, you submitted:

a. timesheets in respect of hours worked at GMMH as set out in Schedules 1a and 1b; **Determined and found proved**

b. timesheets purported to have been signed by Dr A as authorisation of hours worked at GMMH as set out in Schedule 2. **Determined and found proved**

3. You knew that:

a. you did not work the hours claimed on the dates set out in:

i. Schedule 1a; **Determined and found proved, save for 5 January 2021**

ii. Schedule 1b; **Determined and found proved**

iii. Schedule 2. **Determined and found proved**

- b. on the dates referred to in:
 - i. Schedule 1a you were on annual leave; **Determined and found proved, save for 5 January 2021**
 - ii. Schedule 1b and Schedule 2 you were out of the country and therefore not working for GMMH; **Determined and found proved**
 - c. the timesheets set out in Schedule 2 had not been signed by Dr A; **To Determined and found proved**
 - d. you had falsified the signature on the timesheets set out in Schedule 2. **Determined and found proved**
4. Your actions as described at paragraph 2 were dishonest by reason of paragraph 3. **Determined and found proved, save for 5 January 2021**
5. As a result of your actions as set out paragraph 2, you received payments to which you knew you were not entitled. **Determined and found proved, save for 5 January 2021**
6. Your conduct as set out at paragraph 5 was dishonest. **Determined and found proved, save for January 2021**

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

Determination on Impairment - 26/02/2024

137. 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 Reghunath's fitness to practise is impaired by reason of his misconduct.

Submissions

138. On behalf of the GMC, Ms Tighe referred the Tribunal to the case of *GMC v Dr Iheanyi Chidi Nwachuku [2017] Ewhc 2085 (Admin)* as well as other caselaw as set out below.

139. Ms Tighe also reminded the Tribunal of the definition of misconduct as a term of general effect encompassing acts or omissions falling short of what is deemed proper in the circumstances, in *Roylance v GMC (no 2) [2000] 1 AC 311*. Ms Tighe urged the Tribunal to consider the guidelines outlined in Good Medical Practice (2013, as amended) ('GMP'), specifically Paragraphs 1, 65, 71 and 77:

“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.

71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports, and other documents.22 You must make sure that any documents you write or sign are not false or misleading.

a You must take reasonable steps to check the information is correct.

b You must not deliberately leave out relevant information.

77 You must be honest in financial and commercial dealings with patients, employers, insurers and other organisations or individuals.”

140. Ms Tighe further referred the Tribunal to the following paragraphs of the Sanctions Guidance (November 2020)('SG'):

“124 Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor’s clinical responsibility (e.g. providing false 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.

125 Examples of dishonesty in professional practice could include:

a defrauding an employer

...

e failing to take reasonable steps to make sure that statements made in formal documents are accurate.”

141. Ms Tighe submitted that Dr Reghunath repeatedly submitted false timesheets over a prolonged period of time, he falsified signatures in relation to the Schedule 2 submitted timesheets when he was out of the country, and finally, Dr Reghunath defrauded the Trust out of thousands of pounds through his dishonest actions.

142. Ms Tighe referred the Tribunal to the test of impairment in *CHRE v NMC and Paula Grant [2011] EWHC297 Admin*, taken from the fifth ‘Shipman’ report. She submitted that Dr Reghunath’s conduct had led to limb b, c, and d of *Grant* being engaged.

143. Ms Tighe submitted that, in terms of insight, remorse and remediation, Dr Reghunath had not participated in the fitness to practise hearing, nor had he made any substantive responses to the GMC evidence. Dr Reghunath did not make any admissions as to the facts and nor did he provide any sort of reflective piece or statement. This, Ms Tighe suggested, ultimately had an impact on Dr Reghunath’s insight, remorse and efforts to remediate his misconduct. Further, she submitted that, whilst Dr Reghunath appeared to accept some form of wrongdoing within the WhatsApp messages, he then attempted later to claim that those messages were not sent by him. Ms Tighe reminded that Tribunal that, even within those WhatsApp messages, Dr Reghunath appeared to excuse or to justify his behaviour, partly as a result of his belief that he was entitled to annual leave and partly to justify that his actions were as a result of XXX. These were both aspects which were not accepted by the Tribunal at the facts stage.

144. Ms Tighe submitted that Dr Reghunath lacked insight into his misconduct and further, lacked remorse. She stated that limited weight can be attached to the apologies Dr Reghunath made to Dr A within the WhatsApp messages, as well as the apologies he made to GMMH and Pulse recruitment, particularly given the context of the misconduct.

145. Ms Tighe added that Dr Reghunath’s dishonesty was not isolated to the time period in February and March of 2021, and in fact, there had been previous occasions where Dr Reghunath had submitted false timesheets.

146. In terms of dishonesty, Ms Tighe submitted that dishonest misconduct is difficult to remediate and, in this case, Dr Reghunath had provided no evidence of efforts to do so. In light of his lack of insight, remorse or remediation, Ms Tighe stated that there remains a risk of repetition of the misconduct.

147. Ms Tighe reminded the Tribunal that it must have regard to the overarching objective, in particular, the second and third limbs, namely 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. In doing so, she submitted the Tribunal could conclude that a finding of no impairment would undermine the overarching objective.

The Relevant Legal Principles

148. The Tribunal was reminded by the Legally Qualified Chair (LQC) of its duty with regard to the statutory overarching objective, in that it must focus on the need to protect the public, to declare and uphold proper standards of conduct and behaviour to maintain public confidence in the profession.

149. 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.

150. 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 which was serious, and whether the misconduct, which was serious, leads to a finding of impairment.

151. The Tribunal was advised to consider guidance on this matter provided in the case of *Cheatle v GMC [2009] EWHC 645 (Admin)*. The Tribunal was advised that whilst the word 'serious' did not appear in the Medical Act 1983, it was made clear in *Meadow v General Medical Council [2006] EWCA Civ 1390* that misconduct could be found where a doctor's actions fell seriously short of the standards expected of a competent practitioner.

152. Misconduct has been defined as a word of general effect, "involving some act or omission which falls short of what would be proper in the circumstances" and that "the standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances" as per Lord Clyde in *Roylance v GMC*.

153. The Tribunal noted the case of *GMC v Dr Iheanyi Chidi Nwachuku [2017] EWHC 2085 (Admin)* at paragraph 45, through to paragraph 50 of that judgement.

154. The Tribunal had regard to the following paragraphs of GMP, 1, 65, 71 and 77, given the facts found proved in this matter. The Tribunal noted that the paragraph references are to the version of GMP in force at the date of the actions of Dr Reghunath relating to the Allegation.

155. The Tribunal also considered paragraphs 124 and 125 of the SG, as set out above.

156. If a finding of misconduct is made, the Tribunal must then determine whether Dr Reghunath's Fitness to Practise is impaired today, taking into account his conduct at the time

of the events and any relevant factors since then such as to whether the matters are remediable and the likelihood of repetition.

157. The Tribunal was reminded that whilst there is no statutory definition of impairment The Tribunal was referred to the guidance provided by *Dame Janet Smith in the Fifth Shipman report* as adopted by the High Court in *Grant*. In particular the Tribunal should consider whether its finding of facts showed that Dr Reghunath's Fitness to Practise is impaired in the sense that 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 or is likely 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

d. has in the past acted dishonestly and/or is liable to be dishonest in the future.'

158. The Tribunal was also referred to the case of *Cohen v General Medical Council [2008] EWHC 581 (Admin)* in particular paragraphs 62 to 64.

159. The Tribunal bore in mind the case of *General Medical Council v Meadow [2006] EWCA Civ 1390* in which it was held: *'...the purpose of FTP proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. The FTP thus looks forward not back. However, in order to form a view as to the fitness of a person to practise today, it is evident that it will have to take account of the way in which the person concerned has acted or failed to act in the past.'*

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

The Tribunal's Determination on Impairment

Misconduct

161. The Tribunal began by considering if Dr Reghunath’s actions amounted to misconduct and did so with reference to the relevant sections of GMP, which sets out the standards that a doctor must continue to meet throughout their professional career. The Tribunal considered the paragraphs Ms Tighe referred it to, as set out above, to be relevant. It also found the following paragraphs applicable in this case:

“36 You must treat colleagues fairly and with respect.

73 You must cooperate with formal inquiries and complaints procedures...”

162. The Tribunal considered that it was clear from the evidence before it that Dr Reghunath had departed from GMP, by the conduct found proved, in regard to both the paragraphs above as well as those set out in GMC counsel’s submissions. Dr Reghanuth actions were not honest and trustworthy, and he had failed to act with integrity and within the law. Dr Reghunath had been dishonest when signing and completing forms and when he had falsified Dr A’s signature for the Schedule 2 timesheets. He was also dishonest in financial dealings with employers and other organisations, having used Dr A’s purported authorisation to defraud the Trust and mislead Pulse and claim monies which he was not entitled to. The falsification of Dr A’s signature and attempts to legitimise his fraudulent activities by suggesting the timesheets were accurate to Pulse and GMMH evidenced not only Dr Reghanuth’s dishonesty but also a lack of respect for Dr A.

163. Furthermore, Dr Reghunath had not cooperated, provided any evidence, or attended these MPTS proceedings.

164. The Tribunal considered whether the departures from GMP were serious. As set out in paragraph 65 of GMP, use of the words ‘*you must*’ denotes an overriding duty or principle.

165. In light of the above, the Tribunal considered that other members of the profession would find Dr Reghunath’s actions to be a serious departure from the principles set out in GMP. The Tribunal found that Dr Reghunath’s actions brought the profession into disrepute and undermined public trust and confidence in the profession and had breached a fundamental tenet of the profession.

166. Therefore, the Tribunal concluded that Dr Reghunath’s conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct.

Impairment

167. The Tribunal having found that the facts found proved amounted to misconduct, which was serious, went on to consider whether, as a result of that misconduct, Dr Reghunath's fitness to practise is currently impaired.

168. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal looked for evidence of remediation and insight, and the likelihood of repetition, bearing in mind at all times the need to uphold the three limbs of the overarching statutory objective.

169. The Tribunal appreciated that it was difficult to remediate dishonesty, however, a finding of dishonesty did not automatically equate to a finding of impairment. Nevertheless, there had not been any evidence provided to the Tribunal to demonstrate that Dr Reghunath had taken any steps to begin to remediate his behaviour.

170. The Tribunal when considering Dr Reghunath's insight and remorse noted that Dr Reghunath had initially extended an apology to Dr A via WhatsApp for his dishonesty, admitting that he had made a "*grave mistake*" and offered to repay all the money he had received through his misconduct. He had also made offers to repay the monies in emails with GMMH and Pulse. Dr Reghunath also invited Dr A to report him to the Trust/GMC and was ready to take his punishment. However, Dr Reghunath went on to attempt to retract this apology and acceptance of his wrongdoing and instead suggested that these messages, which included the admission and apology for his actions, had not been sent by him. Whilst the Tribunal accepted that there was some initial insight and remorse, when initially confronted with his actions, in submitting timesheets when he knew he was out of the country and falsifying Dr A's signature, this has not continued once formal complaints were raised and there had been no further evidence of remorse from Dr Reghunath.

171. The Tribunal determined therefore that the risk of Dr Reghunath repeating this misconduct was high. He had submitted falsified timesheets over a prolonged period of time and this had not ceased until he had been challenged by Dr A. The Tribunal could not be satisfied that Dr Reghunath would not submit false timesheets or other documents again, or falsify signatures on timesheets or other documents, nor that his dishonesty would not carry over into other areas, given that his dishonesty occurred within a professional setting. The Tribunal had not received any evidence to reassure it that Dr Reghunath understood how serious his misconduct had been, or any acceptance from him that what he had done was wrong, save for the initial apology to Dr A via WhatsApp, which he subsequently tried to qualify.

172. In considering the test in *Grant*, the Tribunal accepted that there were no clinical concerns in respect of Dr Reghunath's practice. However, it considered that limbs (b) to (d) of the test were engaged. In particular, the Tribunal determined that Dr Reghunath's dishonest conduct brought the medical profession into disrepute, he had breached fundamental tenet of the profession to act with honesty and integrity.

173. The Tribunal then turned to consider the three limbs of the overarching objective namely:

- 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.

174. The Tribunal has a duty to maintain the public's confidence in the profession and to declare and uphold proper standards of conduct and behaviour. Doctors occupy a position of privilege and trust in society and are expected to act with integrity. The public and the profession is entitled to expect that doctors will be honest and trustworthy at all times. Dr Reghunath's dishonesty took place in relation to his professional work, took place over a significant period of 2 years and he defrauded the NHS out of tens of thousands of pounds.

175. The Tribunal determined that, from the evidence provided, it was clear that the second and third limb of the overarching objective were engaged and would be undermined if the Tribunal did not make a finding of impairment in this case to reflect the seriousness of the misconduct. The Tribunal considered that it needed to make a finding of impairment in order to maintain public confidence in the profession and to uphold professional standards on the basis that Dr Reghunath had seriously breached fundamental tenets of the profession in the past, and had acted dishonestly.

176. Accordingly, the Tribunal has determined that Dr Reghunath's fitness to practise is impaired by reason of his misconduct.

Determination on Sanction - 27/02/2024

177. Having determined that Dr Reghunath's fitness to practise is impaired by reason of his 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.

Submissions

178. On behalf of the GMC, Ms Tighe submitted that the Tribunal should have regard to the Sanctions Guidance (November 2020) ('the SG') in regards to the mitigating and aggravating factors. She suggested that the Tribunal could consider Dr Reghunath's lack of previous findings of impairment and the lapse of time since incidents occurred as mitigating factors in this case. Ms Tighe also set out that the aggravating factors included a lack of insight, expressed remorse that was later retracted, and actions in a professional setting that raised issues of probity and integrity.

179. Ms Tighe argued against taking no action, asserting that it would not be sufficient, proportionate, or in the public interest given the findings made. She also submitted that conditions would be inappropriate and unworkable due to Dr Reghanuth's lack of engagement, lack of insight, and the seriousness of the misconduct which meant conditions would not be a proportionate sanction.

180. She submitted that suspension can serve as a deterrent and has a punitive effect, preventing the doctor from practicing (and therefore earning a living as a doctor) during the suspension period, although this is not its intention. However, Ms Tighe argued that suspension was not the appropriate sanction in this matter as Dr Reghunath's misconduct and dishonesty were fundamentally incompatible with continued registration, given his lack of remediation, the fact that the dishonesty was repeated, together with his lack of insight and risk of repetition of similar behaviour.

181. Ms Tighe submitted that the threshold for erasure included a serious departure from GMP, deliberate disregard for the principles set out in GMP, persistent dishonesty, and a lack of insight into the seriousness of his actions.

182. Ms Tighe made reference to the case of *Nicholas Pillai v GMC 2009 EWHC 1048*, highlighting that proven dishonesty often warrants severe sanctions to maintain public confidence. Ms Tighe contended that, that even without a risk to patient safety, erasure in this case was necessary to uphold high standards and public trust in the medical profession.

183. In conclusion, Ms Tighe recommended that erasure was the appropriate sanction based on the seriousness of Dr Reghunath's misconduct. She submitted that this was justified due to his persistent dishonesty and attempt to cover up, deliberate disregard for principles set out in GMP, and a lack of insight into the seriousness of his actions. A sanction of erasure emphasised the need to maintain public confidence in the medical profession.

The Relevant Legal Principles

184. The Tribunal is aware that the decision as to the appropriate sanction, if any, to impose on Dr Reghunath'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.

185. The Tribunal considered its decision on impairment, the submissions of GMC counsel, and the documentary evidence adduced during the course of these proceedings.

186. 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/or meet the wider public interest. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Reghunath's interests with the public interest.

187. 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

188. The Tribunal first identified what it considered to be the mitigating and aggravating factors in this case.

189. The Tribunal identified the following mitigating factors:

- Dr Reghunath referred to difficulties in his personal life at the time of the misconduct relating to the timesheets set out in Schedule 2;
- Dr Reghunath had initially offered an apology and demonstrated regret and offered to pay back the money he had dishonestly obtained;
- There had been no previous regulatory findings against Dr Reghunath.

190. The Tribunal then went on to identify the following aggravating factors:

- Dr Reghunath's lack of insight. The Tribunal considered that Dr Reghunath had shown little insight into his misconduct and dishonesty. Whilst initially making an apology and inviting punishment for his actions, when challenged by Dr A, he later retracted his apology, and instead suggested that the WhatsApp messages had not been sent by him. Further, Dr Reghunath has failed to recognise the impact of his misconduct

and dishonesty on others e.g., GMMH, Pulse and Dr A and the public's confidence in the profession.

- Dr Reghunath's dishonesty occurred and escalated over a significant period.
- Dr Reghunath's attempts to cover up his dishonesty in falsifying Dr A's signature to suggest the timesheets submitted by him where legitimate claims for hours worked, which had been correctly authorised by Dr A when they had not. He failed to inform Pulse he was out of the country when submitting timesheets and suggested he was waiting for Dr A's signature, then stated that he had managed to obtain the signature, when he knew he had in fact falsified the signature.

191. In reaching its decision, the Tribunal noted that while Dr Reghunath's misconduct arose within a professional setting, it considered the following paragraph of the SG still applied, particularly given that doctors being honest and trustworthy was a specific obligation in accordance with GMP:

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

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

192. Having considered the aggravating and mitigating factors, the Tribunal then went on to consider what sanction, if any, to impose, starting with the least restrictive.

No action

193. The Tribunal first considered whether it would be appropriate to take no action. It accepted Ms Tighe's submission that there would need to be exceptional circumstances in the case to justify taking no action. The Tribunal considered that there were no such exceptional circumstances in this case and so determined that taking no action was inappropriate in this matter.

Conditions

194. The Tribunal then went on to consider imposing an order of conditions. The Tribunal had regard to paragraph 82 and 84 of the SG:

82 Conditions are likely to be workable where:

- a the doctor has insight...'*

c the tribunal is satisfied the doctor will comply with them

83 Depending on the type of casethe following factorswould indicate that conditions may be appropriate

a no evidence that demonstrates remediation is unlikely to be successful, e.g., because of previous unsuccessful attempts or a doctor's unwillingness to engage

195. The Tribunal accepted GMC Counsel's submissions that conditions would not be appropriate, proportionate or workable. It also noted that there was no assurance that Dr Reghunath would engage with the conditions in any case, due to his lack of engagement in these MPT proceedings. Furthermore, the serious nature of Dr Reghunath's misconduct meant that conditions would not be proportionate. Due to Dr Reghunath's lack of insight, the Tribunal considered that an order of conditions would not provide sufficient protection to the public. The Tribunal also considered that an order of conditions would not be able to address Dr Reghunath's dishonesty and would not be proportionate to the seriousness of the proven misconduct.

Suspension

196. The Tribunal then went on to consider an order of suspension.

197. The Tribunal considered whether it would be appropriate and proportionate to suspend Dr Reghunath's registration.

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

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

92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that

the doctor should not practise again either for public safety reasons or to protect the reputation of the profession)

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

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

200. The Tribunal reminded itself of the nature of the misconduct and dishonesty in Dr Reghunath’s case and his lack of insight and remediation. It recalled its findings at the impairment stage that Dr Reghunath had demonstrated repeated dishonesty and attempted to cover-up his dishonesty over a 2 year period. Dr Reghunath demonstrated a pattern of behaviour which had escalated over time, from submitting false timesheets for authorisation and payment to ultimately falsifying his lead consultant’s signatures on his timesheets to suggest the claims he was making were legitimate and appropriately authorised to claim monies he was not entitled to thus depriving the NHS of substantial sums of money.

201. The Tribunal considered that Dr Reghunath’s breach of a fundamental tenet of the profession, coupled with his lack of insight, failure to demonstrate any remediation, and the remaining risk of repetition, meant that a member of the public would be shocked if this misconduct were not found to be fundamentally incompatible with continued registration.

202. In light of this, the Tribunal considered that Dr Reghunath’s conduct was so serious as to be fundamentally incompatible with continued registration. It therefore determined that suspension would not be appropriate and would fail to uphold the overarching objective.

Erasure

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

204. The Tribunal had regard to the relevant paragraphs of the SG. It agreed with Ms Tighe’s submission that paragraph 108 and paragraph 109 a, b, h and j were engaged in this case:

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

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

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

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

..

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

..

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

205. The Tribunal considered paragraph 124 and 125 to also be relevant because of Dr Reghunath’s dishonesty:

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

125 Examples of dishonesty in professional practice could include:

a defrauding an employer

.....

e failing to take reasonable steps to make sure that statements made in formal documents are accurate.’

206. The Tribunal considered that a member of the public or of the medical profession would be shocked to hear of Dr Reghunath’s falsifying of signatures and defrauding the NHS of thousands of pounds, which was particularly serious misconduct. The Tribunal noted that such misconduct would be deplorable and unacceptable to the public. It further determined

that a lesser sanction than erasure would not sufficiently serve the public interest in this case. It considered that public confidence would be seriously undermined by Dr Reghunath's actions if a sanction of erasure were not imposed.

207. The Tribunal therefore directed that Dr Reghunath's name be erased from the Medical Register. It concluded that erasure was the only appropriate and proportionate sanction which would sufficiently and adequately meet the overarching objective, namely to maintain public confidence in the medical profession and to uphold proper professional standards and conduct for members of the profession.

Determination on Immediate Order - 27/02/2024

208. Having determined that Dr Reghunath's name be erased from the Medical Register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Reghunath's registration should be subject to an immediate order.

Submissions

209. On behalf of the GMC, Ms Tighe submitted that an immediate order of suspension should be imposed in this case.

210. Ms Tighe submitted that it would be necessary to impose such an order in the public interest, given the nature of the Tribunal's findings that there remained a high risk of repetition of the misconduct. She added that it would also be in the best interest of Dr Reghunath, to avoid putting pressure on him.

211. Ms Tighe submitted Dr Reghunath's misconduct had been determined by the Tribunal as being fundamentally incompatible with continued registration. She reminded it that he had demonstrated repeated dishonesty and attempts to cover up his dishonesty. Ms Tighe therefore submitted that, given the circumstances of this case, an immediate order of suspension would uphold the public's confidence in the profession.

The Tribunal's Determination

212. The Tribunal has taken account of the relevant paragraphs of the SG, in particular paragraphs 172, 173, 177 and 178 as set out below:

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 immediate action must be taken to protect public confidence in the medical profession.*

177 *... Where the tribunal has directed suspension or erasure as the substantive outcome of the case, it may impose an immediate order to suspend registration.*

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.*

213. In reaching its determination, the Tribunal considered the submissions of GMC Counsel, the facts previously found proved, and the relevant paragraphs of the SG.

214. The Tribunal concluded that it would be inappropriate not to impose an immediate order in this case, given its finding of serious misconduct, and persistent dishonesty. The Tribunal found that the misconduct in this case was so serious that the only appropriate sanction was that of erasure, and that a risk of repetition remained.

215. The Tribunal determined that public confidence in the profession would be undermined and that it would be failing to uphold the statutory overarching objective if an immediate order were not imposed in this case.

216. Accordingly, the Tribunal determined that an immediate order of suspension was required in the public interest.

217. This means that Dr Reghunath's registration will be suspended from 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.

218. The interim order in place is revoked.

219. That concludes this case.

ANNEX A – 19/02/2024

Determination on service and proceeding in Dr Reghunath's absence

220. This determination will be handed down in private due to mention of Dr Reghunath's XXX. However, as this case concerns Dr Reghunath's misconduct, a redacted version will be published at the close of the hearing.

221. Dr Reghunath was neither present nor legally represented at the hearing. The Tribunal had to consider first whether service had been properly effected as required by the General Medical Council (Fitness to Practise) Rules 2004 as amended ('The Rules') and the Medical Act 1983 ('The Act'). If it found service had been effected in accordance with the Rules, it would need to consider whether to proceed in Dr Reghunath's absence. In reaching its decision it has taken into account all the information before it, including a 'Service Bundle' and the submissions by Ms Harriet Tighe, Counsel, on behalf of the General Medical Council ('GMC'). It accepted the advice of the Legally Qualified Chair (LQC) who referred to the relevant Rules and caselaw.

Service

222. The Tribunal considered Rule 40 of the Rules which provides:

'(1) Any notice of hearing required to be served upon the Practitioner under these rules shall be served in accordance with paragraph 8 of Schedule 4 to the Act.

(2) Subject to paragraph (1), any notice or document required to be served upon the practitioner under these rules can be served –

(a) by ordinary post; or

(b) by electronic mail to an electronic address that the practitioner has notified to the Registrar as an address for communications.'

223. The Tribunal was provided with a screenshot of Dr Reghunath's registration details which contained his postal address in the UK.

224. The Tribunal was aware, whilst postal service had been effected by the GMC using the address above that Dr Reghunath had stated in an email to the MPTS dated 31 July 2022, that he was out of the country and had asked for all correspondence to be sent by email. The email address provided by Dr Reghunath was then used as a means of service as provided by Rule 40(4)(b) rather than other methods of service. This Rule provides in this regard:

'The service of any notice or document under these rules may be proved by...

(b) a confirmation of receipt of the notice or document sent by electronic mail.'

225. The Tribunal was provided with a copy of an email sent by Dr Reghunath to the MPTS Case Management Team on 31 July 2023 which stated, 'I have just seen this email late Friday night here.... I do not have a permanent residence/ property/ address in the UK and has been

renting whilst I was there. I will try check my emails on a regular basis here on and will reply promptly as much as I can, sending paper communications to my last known address in the UK, I wont have access to, will not serve the intended purpose.'

226. The Tribunal was also provided with a copy of the response from the MPTS Case Management Team on 31 July 2023 requesting details of his current address in India. The Tribunal was provided with a copy an email sent by the GMC to Dr Reghunath's email address on 8 January 2024 which contained details of the Allegation and informed him that the MPTS would send him a Notice of Hearing separately. The Tribunal was provided with an image of a delivery receipt which states that delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server. The Tribunal was provided with an additional email sent from the GMC to Dr Reghunath's email address on 11 January 2024 requesting acknowledgement of receipt of the Notice of Allegation and accompanying letter dated 08 January 2024. The GMC received no further correspondence from Dr Reghunath.

227. The Tribunal received evidence that the MPTS had sent the Notice of Hearing to Dr Reghunath using his registered email on 9 January 2024. The MPTS Notice of Hearing was also sent to Dr Reghunath's postal address in the UK on 11 January 2024. The Tribunal was also provided with evidence of refused delivery at the registered postal address which the letter was sent to. The MPTS received no further correspondence from Dr Reghunath.

228. The Tribunal had regard to the case of *General Medical Council v Adeogba; General Medical Council v Visvardis* [2016] EWCA Civ 162 which confirms that the GMC has a duty to communicate with a doctor at the registered address they provide. The Tribunal noted that there is an obligation on Dr Reghunath to ensure that the address provided to the GMC is up to date.

229. The Tribunal was satisfied that Dr Reghunath had received and responded to correspondence from the GMC and MPTS by the email address he stated was to be used in these proceedings and subsequently failed to provide details of his current address in India when the GMC requested this. The Tribunal noted that the GMC having communicated with Dr Reghanuth using the e mail address provided were not required to anything further in terms of service.

230. The Tribunal considered the service bundle provided by the GMC, as well as Ms Tighe's submissions. Having considered all the evidence before it, particularly noting Dr Reghunath's own replies to the GMC, the Tribunal was satisfied that notice of the hearing

had been properly served in accordance with Rules 15 and 40 of the Rules and paragraph 8 of Schedule 4 to the Medical Act 1983 (as amended).

Proceeding in Absence

231. Having been satisfied in relation to service, the Tribunal went on to consider whether to proceed in absence in accordance with Rule 31 which provides:

'31. Where the practitioner is neither present nor represented at a hearing, the Committee or Tribunal may nevertheless proceed to consider and determine the allegation if they are satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with these Rules.'

232. Whilst the Tribunal has a discretion to proceed in the absence of the Doctor they had regard to the House of Lords decision in the criminal case of *R v. Jones and Haywood* (2001) which said the discretion to proceed in absence should only be exercised with great care and the Tribunal also had regard to the case of the *GMC v. Adeogba (GMC v. Visvardis)* (2016). The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with appropriate care and caution, balancing the interests of the doctor with the wider public interest.

233. Ms Tighe invited the Tribunal to proceed in Dr Reghunath's absence. Ms Tighe submitted that Dr Reghunath is aware of these proceedings and has himself confirmed this on 31 July 2023. She submitted that Dr Reghunath has voluntarily absented himself from the hearing. Ms Tighe submitted that the GMC have made every effort to keep the doctor up to date with the developments of this case and informed Dr Reghunath about the hearing date and hearing length. Moreover, Ms Tighe submitted that Dr Raghunath has not applied to the MPTS or notified the GMC that he would seek an adjournment of the MPTS hearing.

234. Ms Tighe submitted that there is no evidence to suggest that an adjournment would secure the attendance of Dr Reghunath and he is aware of the nature of the hearing and the allegations he faces. She submitted that Dr Reghunath is also aware of the possible consequences and sanctions should his fitness to practice be found impaired. She referred the Tribunal to the case of *Adeogba* which highlights the distinction between criminal and regulatory proceedings, particularly that disciplinary hearing must be guided by the statutory overriding objective and that the fair economical, expeditious and efficient disposal of allegations made against medical practitioners, is of real importance. She submitted, in this regard, that the analogy between criminal prosecutions and regulatory proceedings should not be taken too far.

235. Ms Tighe submitted that, as set out on an email from the GMC to Dr Reghunath dated 31 July 2023 (in response to Dr Reghunath’s email dated 31 July 2023 as set out at paragraph 14), having referred to remaining involved in the investigatory procedures XXX.

236. Ms Tighe, invited the Tribunal to proceed with the hearing in Dr Reghunath’s absence.

The Tribunal’s Decision

237. In deciding whether to proceed with this hearing in Dr Reghunath’s absence, the Tribunal carefully considered all the information before it. The Tribunal took account of the service bundle and limited correspondence from Dr Reghunath. The Tribunal noted that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest. The Tribunal also considered the risk of reaching the wrong conclusion about the reasons for the doctor’s absence, the risk of reaching the wrong decision as a result of not hearing the doctor’s account XXX, and any challenges to such evidence.

238. The Tribunal noted that no application for an adjournment had been made and no special measures had been requested by Dr Reghunath or any reasons put forward why he could not attend the hearing in relation to this virtual MPTS hearing or any reason why an alternative date for the hearing would be more appropriate. Dr Reghunath had been provided with ample time and opportunity to engage with the regulatory process but save for limited response in July 2023 he has continually failed to do so. There was therefore no evidence to suggest that an adjournment today would result in Dr Reghunath’s participation in a hearing in the future.

239. The Tribunal noted that although Dr Reghunath had previously XXX. He had the opportunity to request any reasonable adjustments to be made to facilitate his attendance and participation in the hearing but failed to do so.

240. The Tribunal was of the view that Dr Reghunath had been informed at various stages of his right to attend and/or be represented in the MPTS proceedings and at this hearing but had voluntarily absented himself. Dr Reghunath was aware of the different organisations which could represent him, as demonstrated in his correspondence with the GMC.

241. Furthermore, Dr Reghunath has regulatory obligations in providing details of his up-to-date contact details which he failed to do in terms of his address in India providing only an

e mail address. He also failed in his obligation to engage with the regulatory process to its conclusion.

242. The Tribunal decided that it is in the public interest and in the interests of the witnesses who are to give evidence in this matter and in Dr Reghunath's interest that the matter be dealt with economically, expeditiously and any delays avoided. In all the circumstances, the Tribunal therefore determined that it was appropriate to proceed with the hearing in Dr Reghunath's absence.

ANNEX B – 19/02/2024

Determination on admitting further evidence

243. On behalf of the GMC, Ms Tighe made an application pursuant to Rule 34 of the Rules, to admit additional evidence. Rule 34(1) states:

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

Submissions

244. Ms Tighe submitted that the Tribunal should allow the evidence of Mr C to be admitted. She submitted that the Tribunal has only seen the redacted bundle so has not been able, as of yet, to see the evidence of Mr C, who is due to give evidence later today.

245. Ms Tighe submitted that Mr C is an anti fraud specialist working for Mersey Internal Audit Agency and one of his roles at the time was to undertake investigations for Greater Manchester Mental Health Foundation Trust. In relation to Dr Reghunath, Ms Tighe submitted that Mr C was tasked with carrying out an investigation into time sheets that had been submitted by the doctor between April 2019 and March 2021. She indicated that this is the time period included within the Allegations. Ms Tighe submitted that Mr C had produced a report as part of the investigation which included the period during which Dr Reghunath had submitted timesheets and claimed payment for the hours set out in the timesheets.

246. Ms Tighe submitted that Mr C's evidence is relevant in assisting the Tribunal in determining certain facts i.e what time sheets were submitted in relation to the dates set out within Schedule 1(a) and Schedule 1(b). She submitted that his evidence also assists the

Tribunal in determining whether Dr Reghunath received payment in relation to all the dates which were set out within Schedule 1(a), Schedule 1(b) and Schedule 2. Ms Tighe submitted that the flight information exhibited to Mr C's statement demonstrates that Dr Reghunath was out of the country for the dates which are included within Schedule 1(b) and Schedule 2 of the Allegations.

247. Ms Tighe submitted that whilst the documents exhibited by Mr C had already been disclosed by the GMC (as referred to below) the GMC took the view that a statement by Mr C would assist the Tribunal in providing an overview and some context to his investigations and those documents now exhibited to his statement.

248. Ms Tighe submitted that this satisfies the first part of Rule 34(1) that the evidence that Mr C can provide in his witness statement and exhibits are clearly relevant.

249. By way of fairness, Ms Tighe submitted that Dr Reghunath has received all the exhibits referred to as part of the Rule 7 bundle via email on 14 March 2023, albeit they were not referred to as Mr C's exhibits at that stage. She submitted that there is one document that Dr Reghunath did not receive which was an email from the Trust dealing with certain dates contained within Schedule 1(b). She submitted that this email was sent to Dr Reghunath on 6 October 2023. Ms Tighe submitted that the GMC sought extensions to the initial disclosure date of 11 September 2023 and was granted two extensions until 6 October 2023. It had chased the Trust for additional documentation which was not received. The GMC therefore proposed that in the absence of further disclosure documents from the Trust an overview statement from Mr C would assist the Tribunal and explain the context of the documents disclosed.

250. Ms Tighe submitted that the MPTS were informed that it was the GMC's intention to obtain a statement from Mr C on 16 November 2023 and a pre-hearing meeting was held on 23 November 2023. During this meeting, the case manager determined the statement of Mr C could not be disclosed by way of ongoing disclosure and included within the hearing bundle and instead an application would have to be made to the Tribunal for the statement to be admitted.

251. Ms Tighe submitted that Dr Reghunath was sent the finalised version of Mr C's statement and the exhibit via email on 8 December 2023. She submitted that Dr Reghunath did not raise any objections to the GMC regarding this statement. Ms Tighe submitted that this is a situation whereby Dr Reghunath has been provided with the evidence of Mr C in advance of the hearing, has been informed that the GMC seek to rely upon that evidence and

that Mr C will attend to give evidence to this tribunal. Ms Tighe therefore submitted that it would be fair and relevant to admit the evidence of Mr C.

Tribunal's Decision

252. The Tribunal considered that the evidence to be provided by Mr C was of relevance to large portions of the Allegations and may be determinative.

253. The Tribunal considered whether it was fair to admit the evidence. It bore in mind that Dr Reghunath has received the additional documentation and has been given the opportunity to contest or respond to this evidence but has not done so. It noted that the evidence is there to assist the Tribunal and therefore it would be fair and relevant to admit the evidence as it is of direct relevance to determine issues in this matter.

254. In conclusion, the Tribunal therefore determined to grant the GMC's application to admit the additional documents into evidence.

SCHEDULE 1a

DATE CLAIMED FOR	RATE PAID
21/12/2020	£2,399.98 (gross paid for the 3 days claimed for)
22/12/2020	

05/01/2021	
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SCHEDULE 1b

8/04/2019	£680.00
9/04/2019	£425.00
11/04/2019	£680.00
3/06/2019	£680.00
4/06/2019	£680.00
5/06/2019	£340.00
6/06/2019	£680.00

SCHEDULE 2

DATE CLAIMED FOR	HOURS CLAIMED
Timesheet dated 12/03/2021 for week ending 14/03/2021	
12/03/2021	8 hours
11/03/2021	8 hours
10/03/2021	8 hours
09/03/2021	8 hours
08/03/2021	8 hours
Timesheet dated 15/03/2021 for week ending 07/03/2021	
05/03/2021	8 hours
04/03/2021	8 hours
03/03/2021	8 hours
02/03/2021	8 hours
01/03/2021	8 hours

Timesheet dated 03/03/2021 for week ending 28/02/2021	
26/02/2021	8 hours
25/02/2021	8 hours
24/02/2021	8 hours
23/02/2021	8 hours
22/02/2021	8 hours
Timesheet dated 24/02/2021 for week ending 21/02/2021	
19/02/2021	8 hours
18/02/2021	8 hours
17/02/2021	8 hours
16/02/2021	8 hours
15/02/2021	8 hours
Timesheet dated 24/02/2021 for week ending 14/02/2021	
12/02/2021	8 hours
11/02/2021	8 hours
10/02/2021	8 hours
09/02/2021	8 hours
08/02/2021	8 hours