PUBLIC RECORD

Dr Singh has lodged an appeal against decisions of this Tribunal. She remains free to practise without restriction while the appeal is considered.

Dates: 30/01/2023 - 20/02/2023, 04/10/2023 - 09/10/2023

Medical Practitioner's name: Dr Reeta SINGH

GMC reference number: 6029046

Primary medical qualification: MB ChB 2001 University of Leicester

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

Summary of outcome
Suspension, 1 month

Tribunal:

Legally Qualified Chair	Mr Colin Chapman
Lay Tribunal Member:	Mrs Ann Bishop
Medical Tribunal Member:	Mr John Hayward

Tribunal Clerk:	Mr Francis Ekengwu & Mr Joel Taylor-Garratt

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Nicholas Peacock, Counsel, instructed by Ms Joanne Brooks of the MDU
GMC Representative:	Mr David Claxton, Counsel, instructed by GMC Legal

Attendance of Press / Public

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

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 - 17/02/2023

Background

1. Dr Singh completed her medical degree in 2001 at the University of Leicester. Dr Singh also holds a BSc and a postgraduate certificate in medical education which were completed in 1996 and 2011, respectively.

2. Prior to the events which are the subject of the Allegation Dr Singh worked as a House Officer and a Senior House Officer in various hospitals in England, before starting work as a GP Registrar at the Roxton Practice in Immingham and then at the Littlefield Lane Surgery in Grimsby between February 2006 and February 2007.

3. Dr Singh then became the GP Principal and a Company Director of Ashwood Surgery Limited in Grimsby, which employed the staff at Ashwood Surgery ('the Surgery'). Dr Singh was also the Training Programme Director for the North Lincolnshire VTS between March 2008 to October 2011, then a Director of Clinical Studies at Hull York Medical School between August 2010 to 2013 and was a clinical lead Health and Wellbeing for the NEL Clinical Consortium from June 2011 to June 2012.

4. At the time of the events Dr Singh was practising as a salaried GP and GP Principal at the Surgery employed by Ashwood Surgery Limited. In 2011, she became the sole Personal Medical Services ('PMS') contract holder providing GP services to NHS England. Dr Singh and XXX, Mr C were co-directors of Ashwood Surgery Limited with Dr Singh owning 51% of the shares and Mr C the remaining 49%.

5. The Allegation that has led to Dr Singh's hearing can be summarised as that while working as a GP at the Surgery and the sole PMS contract holder, Dr Singh failed to ensure that the Surgery had adequate systems in place for correct staff pension contributions to be paid to NHS Pensions, failed to ensure that the correct contributions were paid, and failed to comply with her obligations under the NHS Pension Scheme Regulations.

6. It is further alleged that Dr Singh did not take adequate action to check and resolve problems raised by staff members about staff pensions, that she failed to respond to correspondence from NHS Pensions, and that she failed to take adequate action to ensure that the unpaid staff pension contributions were paid when she knew that the correct contributions had not been paid and that the underpayment meant that the surgery had retained funds to which it was not entitled. It was alleged that the failure to ensure correct contributions had been paid and the failure to take adequate action regarding the unpaid contributions were dishonest.

7. The initial concerns were raised with the GMC, on 14 November 2014 by the Finance Manager of NHS Pensions.

The Allegation and the Doctor's Response

8. The Allegation made against Dr Singh is as follows:

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

1. Whilst working as a General Practitioner ('GP') at Ashwood Surgery ('the Surgery'), as the sole Personal Medical Services contract holder, you failed to:

    a. ensure the Surgery had adequate systems in place for correct staff pension contributions to be paid to NHS Pensions; To be determined

    b. ensure that the correct employer and/or employee contributions for staff pensions were paid to NHS Pensions; To be determined

    c. comply with your obligations under the NHS Pension Scheme Regulations ('the Regulations'), in that you did not:

        i. send Scheme contributions to NHS Business Service Authority within 19 days of the month following the month in which the earnings were paid; Admitted and found proved

ii. keep records of all contributions deducted from salaries and wages, and update member pension records within two calendar months of the end of the financial year. Admitted and found proved

2. On dates between in or around November 2013 and in or around March 2014, Ms A and Ms B, staff members, sought to raise concerns with you in relation to staff pensions and you did not undertake adequate action to:

   a. check the position of any problem with the staff pensions; To be determined

   b. resolve any problem with the staff pensions. To be determined

3. As set out in Schedule 1, between 21 March 2014 and 28 August 2015, you were sent and/or copied into correspondence about staff pensions at the Surgery and you:

   a. did not personally respond to the correspondence; To be determined

   b. failed to take adequate action to ensure that the unpaid staff pension contributions were paid to NHS Pensions; To be determined

   c. failed to take adequate action to meet your obligations under the Regulations. To be determined

4. You knew that:

   a. correct employer and/or employee contributions for staff members' pensions had not been paid; Admitted and found proved

   b. underpayment of staff members' pensions meant that the Surgery had retained funds to which it was not entitled. To be determined

5. Your conduct at paragraphs 1b and 3b was dishonest by reason of paragraph 4. To be determined

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

The Admitted Facts

9. At the outset of these proceedings, through her counsel, Mr Peacock, Dr Singh made admissions to sub-paragraphs 1(c)(i) and (ii) and 4(a) of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these sub-paragraphs of the Allegation as admitted and found proved. The admissions are reflected in the above paragraphs.

The Facts to be Determined

10. In light of Dr Singh's response to the Allegation made against her, the Tribunal then determined the disputed paragraphs of the Allegation.

Witness Evidence

11. The Tribunal received oral evidence on behalf of the GMC from the following witnesses, who all gave evidence via video link:

- Mr E, formerly NHS England's Head of Primary Care for North Yorkshire and Humber region, who provided a witness statement dated 23 July 2019, a supplemental witness statement dated 26 September 2019 and a further supplemental witness statement undated but submitted on 30 January 2023;
- Mr D, formerly NHS Pension Scheme's Technical Manager, who provided a witness statement dated 26 September 2019;
- Ms F, Audit and Fraud Prevention Liaison Manager at NHS Pension Scheme, who provided witness statements dated 19 September 2017, 15 November 2017 and 24 June 2020;
- Ms H, former Practice Manager at the Surgery, who provided a witness statement dated 13 June 2013;
- Ms G, former Personal Assistant at the Surgery, who provided a witness statement dated 13 August 2018;
- Ms I, former Receptionist at the Surgery, who provided a witness statement dated 3 August 2018;
- Ms J, former Practice Manager at the Surgery, who provided a witness statement dated 20 August 2018; and
- Ms A, former Registered Nurse at the Surgery, who provided a witness statement dated 6 August 2018.

12. With the agreement of the parties, the Tribunal admitted the witness statement of Ms B, dated 8 October 2018, as hearsay evidence accompanied by agreed wording that the contents of the statement are not agreed by Dr Singh.

13. Dr Singh provided her own witness statement dated 23 June 2021 and gave oral evidence at the hearing. In addition, the Tribunal received evidence from the following witnesses on Dr Singh's behalf:

- Mr C, Dr Singh's husband and co-director of Ashwood Surgery Limited, who provided a witness statement dated 23 July 2021;
- A letter signed on 4 February 2023 from Dr K, GP of the Roxton Practice providing evidence of Dr Singh's good character.

Documentary Evidence

14. The Tribunal had regard to the documentary evidence provided by the parties, including the exhibits produced by GMC witnesses and by Dr Singh and Mr C. The exhibits are indexed and paginated in the index to the hearing bundle to which reference can be made. The evidence included but was not limited to:

- Dr Singh's PMS contract dated November 2011;
- Dr Singh's Contract of Employment with Ashwood Surgery Limited, dated 28 October 2011;
- NHS Pension Scheme Employer's Charter, dated 2012;
- Various emails from and to Ms A and Ms B between November 2013 and March 2014;
- The letters and emails set out in Schedule 1 to the Allegation;
- Emails and correspondence produced by the GMC witnesses; and
- Emails and correspondence produced by Dr Singh and Mr C.

The Tribunal's Approach

15. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and that it is for the GMC to prove the Allegation. Dr Singh 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.

16. The Tribunal also had regard to the following relevant legal principles:

- the approach to factual findings applying *R (on the application of Dutta) v GMC [2020] EWHC 1974 (Admin)*;
- the limitations to be considered before attaching weight to hearsay evidence, applying *R (on the application of Bonhoeffer) v GMC [2011] EWHC 1585 (Admin)*;
- the test to be applied when considering dishonesty, applying *Ivey v Genting Casinos UK LTD [2017] UKSC 67*; and
- that Dr Singh's good character should be taken into account in assessing her credibility and propensity to act as alleged, but her good character is not in itself defence, applying *Sawati v GMC [2022] EWHC 283 (Admin)*.

The Tribunal's Analysis of the Evidence and Findings

17. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

18. The Tribunal first considered Dr Singh's responsibilities regarding the administration of the NHS Pension Scheme for those employed at the Surgery.

19. It noted that in November 2011 Dr Singh became the sole PMS contract holder for the provision of primary care services at the Surgery. Paragraph 392 of part 22 of the PMS contract set out her duties to comply with relevant legislation and guidance:

> *"392. The Contractor shall comply with all relevant legislation and have regard to all relevant guidance issued by the relevant body, the relevant Strategic Health Authority if the relevant body is a Primary Care Trust or the Secretary of State."*

20. The Tribunal noted that as the sole PMS contract holder, Dr Singh was also the 'Employing Authority' for the purpose of the NHS Pension Scheme. As such, her legal responsibilities were set out in the document entitled *'NHS Pensions: A guide to become a GMS/PMS/sPMS Provider - Applying to the NHS Pension Scheme'*, the relevant part of which states:

> *"GMS/PMS/sPMS Provider additional employer responsibilities*
>
> *All GMS/PMS/sPMS Providers are legally bound to administer the NHS Pension Scheme locally in accordance with statutory pension legislation. They are obliged to offer the NHS Pension Scheme to all of their eligible employed staff, including those who work part time and on the bank.*

A GMS/PMS/sPMS Provider that has access to the NHS Pension Scheme is legally required in addition to the Employers Charter to do the following:

Deduct employee tiered contributions and forward these along with employer contributions directly to NHS Pensions by the 19th day of month end…."

21. The Tribunal was referred to the document entitled *'NHS Pension Scheme Employer's Charter: Your roles and responsibilities in locally administering the NHS Pension Scheme'*, which is a document setting out the roles and responsibilities of each scheme employer to enable successful administration of the NHS Pension Scheme. After setting out the various Regulations governing the Scheme, the Charter states:

"… the roles and responsibilities outlined within this document are legal requirements with which all scheme employers must fully comply."

22. The Employer's Charter sets out the role of the Scheme Employer as follows:

"Scheme employers play a vital role in the administration of the NHS Pension Scheme. Your local administrative responsibilities require the fulfilment of these primary activities:

- *Appointing a named person(s) who is responsible for the day to day administration of the NHS Pension Scheme within your organisation.*
- *Undertaking the necessary administration procedures for:*
  - *New members of staff to join (or opt out of) the NHS Pension Scheme;*
  - *Members of staff who leave the organisation and either retire, defer their membership or obtain a refund (if eligible).*
  - *Any members of staff who die whilst in NHS employment.*
- *Collecting employer and employee Scheme contributions and submitting them on a monthly basis to NHS Pensions. This includes ensuring that the correct contribution bandings are applied.*
- *To provide accurate, timely membership data, and information about Scheme members currently or previously within your organisation (where available) to NHS Pensions on a standard basis or in response to a request. (This includes undertaking reconciliation between employer held and NHS Pensions held data).*
- *Provide Scheme members with information about the Scheme, their individual benefits (where possible) and other basic retirement information.*

- *Undertake financial accounting requirements (e.g. Greenbury).”*

23. Having had regard to these documents, the Tribunal considered that they clearly set out Dr Singh’s roles and responsibilities regarding the payment of employer and employees NHS Pension contributions which are the subject of the Allegation against her.

24. The Tribunal noted that, at around the same time as Dr Singh became sole PMS contract holder, she and Mr C became the only two directors of Ashwood Surgery Limited, and that it was the limited company which employed Dr Singh and all the staff at the Surgery. The Tribunal did not consider the existence of the limited company to diminish or alter Dr Singh’s obligations to administer staff pensions under the PMS contract.

25. The Tribunal noted the evidence from Dr Singh and Mr C about how they chose to divide their responsibilities in running the Surgery. They said that Dr Singh was responsible for all clinical matters and providing the primary services under the PMS contract, and that Mr C was responsible for the administrative, operational, and financial management. The Tribunal heard evidence from several witness who had been employed at the Surgery who all agreed that this was the way the responsibilities were divided, and that the divide was adhered to, and strictly enforced, especially so far as Mr C was concerned.

26. The Tribunal also heard evidence that it is a usual and common practice for a GP in Dr Singh’s position to delegate responsibility for the administration of staff pensions. The Tribunal considered it was reasonable and proper for Dr Singh to rely on others to manage the financial aspects of the surgery, including the outsourcing of some financial functions to third parties, for example, the payroll.

27. The Tribunal also considered that it was reasonable at the outset of their co-directorship of Ashwood Surgery Limited for Dr Singh to rely on Mr C to undertake the financial management of the Surgery on behalf of the company. Mr C was a businessman who managed other companies, one of which was a care home, and he had a team of people working for him who were responsible for managing his companies on his behalf. The Tribunal noted, however, that Mr C had no qualifications in accountancy nor experience in managing NHS pensions, when he and Dr Singh decided how they would manage the Surgery.

28. The Tribunal noted that throughout the period covered by the Allegation, Dr Singh remained the sole PMS contract holder, and therefore ultimately responsible for fulfilling the requirements of that role regarding the NHS Pension Scheme. The Tribunal heard evidence that many PMS contract holders would make use of an accountant to oversee the proper financial management of the Practice, including the payment of pensions.

29. The Tribunal decided that, provided the Surgery's obligations under the Scheme were being fulfilled, there was no obligation for Dr Singh to become directly involved, but that once it became clear that this was not the case, then she had a responsibility to investigate the problem and ensure the Surgery's compliance with the Scheme. At the very least this would involve ensuring the accountant had seen relevant emails, scrutiny of the accounts and asking probing questions of the accountant.

30. The Tribunal then considered each of the paragraphs of the Allegation.

Paragraph 1 of the Allegation

31. The Tribunal noted that Dr Singh admitted paragraph 1(c) of the Allegation, namely that she had not complied with her obligations under the NHS Pensions Scheme Regulations in that she did not: (i) send pension scheme contributions to the NHS Business Services Authority ('NHSBSA') within 19 days of the month following the month in which the earnings were paid; and (ii) keep records of all contributions deducted from salaries and wages, and update member pensions records within two calendar months of the end of the financial year. Dr Singh, clearly therefore accepted that she had obligations under the Regulations.

32. In considering paragraph 1(a) of the Allegation, the Tribunal considered the documentary evidence contained in the letters and emails sent to Dr Singh and the Surgery at the relevant time, which was after she became sole PMS contract holder in late 2011.

33. The Tribunal considered that Dr Singh was made aware there was a problem with pension contributions as early as July 2012 when a former practice manager sent her an email dated 20 July 2012 (forwarding an email received from NHS Pensions dated the same day in which reference was made to employee contributions not being paid for May 2012 and June 2012). Dr Singh was sent an email on 24 July 2012, on behalf of NHS Pensions informing her of the outstanding payments under the subject *'Urgent Action Required'*. This email reminded Dr Singh of the urgency of complying with pensions contributions on time, specifically within 19 days of the month following the month in which salaries were paid.

34. The Tribunal noted that Dr Singh forwarded the email to Mr C without comment on 25 July 2012. Further emails around that time showed that Dr Singh was involved in correspondence which showed that there was uncertainty on her part and on the part of Mr C's team about how the payments should be made. For example, there was a lack of awareness about how to access a GP1 form and the accompanying four-digit code which were required to be submitted when the contributions were paid. The Tribunal also had regard to another

email sent on behalf of NHS Pensions to Dr Singh on 3 August 2012 which she forwarded on the same day to Mr C stating '*Can you do this*'.

35. The Tribunal took the view that these very early email communications were such as to alert Dr Singh that there were problems with the payment of pension contributions, and that any systems which were in place to make the contributions were not as effective as they should be, particularly as it was clear that even the basic requirement of the forms to be completed and the code were not fully understood by those who were administering the Scheme on her behalf.

36. The Tribunal then noted that, on 20 November 2012, Dr Singh was sent an email from NHS Pensions making her aware that payments for contributions were owing for the months May 2012 – September 2012. Dr Singh forwarded this email to Mr C without comment on 22 November 2012. Dr Singh accepted that she received the email and forwarded it to Mr C.

37. The Tribunal also noted that, on 13 September 2012, Dr Singh had been sent an email from NHS Pensions advising her of changes to NHS Pensions online which became effective on 10 September 2012. It noted that she did not forward this email to Mr C until 26 November 2012 which was two months after the changes had become effective. The Tribunal considered the delay in providing the information to Mr C demonstrated that Dr Singh was not giving her obligations under the Scheme appropriate attention.

38. The Tribunal noted that Dr Singh was sent a further email on 23 January 2013 which was designated as of high importance and headed: *'Immediate Action required'*. The email informed Dr Singh that her that pension contributions were outstanding for November 2012 and December 2012. This email required immediate payment of all outstanding contributions. It informed Dr Singh that the practice was in breach of scheme guidelines and reminded her that:

> *"NHS employers have statutory duty to ensure scheme contributions reach the NHS Pensions bank account by the 19th of the month, following the month in which the earnings were paid to the member".*

39. Dr Singh forwarded the email to Mr C, stating:

> *"I don't understand this can you action e-mail but can you action it please xx"* (sic).

40. Whilst the Tribunal noted that Dr Singh asked Mr C to deal with the issue, she did not request a response to confirm that the action had been taken, an explanation about why the contributions had not been paid, nor did she seek assurance that action had been taken.

41. The Tribunal then had regard to an email from NHS Pensions, on 4 February 2013, regarding compliance with timely payment of pensions contributions. It highlighted in red that contributions for November 2012 were submitted after the due date of 19 December 2012. The email again provided a reminder that payments must be received by 19th of each month following the month on which the earnings were paid to the member. The Tribunal noted that this email provided guidance on how the scheme should be administered and provided links to the 'GP Practice Administration Guide', and to the 'Employers Charter' as resources outlining the role and responsibilities of Scheme Employers in locally administering the NHS Pension Scheme.

42. In her witness statement Dr Singh stated that she forwarded the email to Mr C in accordance with her standard practice which was that whenever she received anything to do with operational matters or finance, she would take a 'quick look' and then forward it to Mr C to action. In her oral evidence, Dr Singh stated that on assuming the role of sole PMS Contract holder she had not been sent guidance about the Pensions Scheme. However, the Tribunal was of the opinion that, even if previous emails had been given a 'quick look', the tone of this email of 4 February 2013 and the information it contained should have made her seek out the relevant guidance. The Tribunal noted that in forwarding the email to Mr C, Dr Singh did not request a response to confirm that the action had been taken, an explanation about why the contributions had not been paid, nor did she seek assurance that action had been taken.

43. The Tribunal took the view that this document, headed 'NHS Pension Scheme Compliance', with sentences highlighted in red and emboldened, could not be considered as anything other than a serious document requiring more than a 'quick look'.

44. The Tribunal noted that, on 20 March 2013, Dr Singh was sent an email in which she was informed that the contributions for February 2013 were outstanding and was again reminded of her statutory obligations. Dr Singh accepted that she received the email but does not state what action she took. On 15 May 2013, Dr Singh received an email which provided advice to all GP Practices about compliance with the Scheme which again contained guidance about administering the scheme, and the relevant links to scheme guidance. Dr Singh forwarded this to Mr C and the practice manager the following day with nothing more than the comment *'please note and print'*.

45. The Tribunal noted that the next correspondence addressed to Dr Singh were letters dated 22 July 2013 and 21 March 2014, both from NHS Pensions. Dr Singh stated that she cannot recall having received either letter at the time, because of problems with the post at the Surgery. The Tribunal noted that the witnesses who worked at the Surgery confirmed these problems.

46. However, with regard to the letter dated 21 March 2014, the Tribunal noted that when asked about this in examination-in-chief by Mr Peacock, Dr Singh stated that she did remember receiving the letter, that she was terrified by its content and took it very seriously. This was inconsistent with what Dr Singh said in her statement, which was that she could not recall receiving it. The Tribunal decided that, albeit at some stage after the letter was sent, Dr Singh did receive the letter otherwise she would not have recalled being so alarmed by its contents.

47. The Tribunal noted that the next correspondence was an email dated 27 August 2014 which Dr Singh was copied into from Mr L of NHS Pensions. This email refers to NHS Pensions having received two recent payments but that contribution for eight months (December 2013 to July 2014) had been outstanding. It sets out the action required to resolve the problem, including a reconciliation of data for 2012-2013 and 2013-2104 and any arrears or adjustments made accordingly. The Tribunal noted that Dr Singh accepted that she was copied into this email but noted that she did not say whether she took any action as a result. The Tribunal also noted that the next day, 27 August 2014, Mr L wrote to Mr C stating he had defaulted on the agreement to continue to pay current contributions. Dr Singh was copied into the email but does not say what action she took as a result, notwithstanding being made aware that the Surgery had again defaulted on payments due to NHS Pensions.

48. The Tribunal then had regard to an email from Mr L on 30 April 2015, which was around three years after the first correspondence regarding outstanding contributions. This again suggested that Dr Singh did not have adequate systems in place for correct pension contributions to be paid to NHS Pensions. In this email, Mr L expressed his disappointment that the issues had not been resolved especially considering the time and effort expended on dealing with the underpayment of contributions for the Surgery.

49. The Tribunal then noted a further email from Mr L dated 19 June 2015, which Dr Singh was again copied into. The email referred to the outstanding contributions possibly amounting to £40,000.

50. The Tribunal noted that by this time, there were repeated and ongoing failures to make the correct employer and employee contributions to NHS pensions over a period of three years, and that this remained the position up to and until Dr Singh's PMS contract was

terminated by NHS England in August 2015. The Tribunal noted the documentary evidence that there were ongoing discussions between NHS Pensions and Mr C throughout this period in which attempts were made to resolve the issue, but that these negotiations were not successful. The Tribunal did not consider the fact that NHS Pensions were prepared to work with the Surgery on a regular basis to resolve the problems, including undertaking financial reconciliations which would not have been necessary if the Surgery had paid the correct amounts, absolved Dr Singh of the responsibility to ensure that the correct payments were being made.

51. The Tribunal decided that the evidence showed that problems regarding the payment of correct contributions persisted for around three years. The Tribunal considered that these ongoing problems and the final deficit in payments is strong evidence that the systems in place were not adequate. The Tribunal were also satisfied, from the correspondence outlined above that Dr Singh was aware of the problems at a very early stage and that she continued to be so aware until her PMS contract was terminated.

52. The Tribunal noted that there was no dispute that the correct contributions had not been paid to NHS Pensions. This was evidenced in the correspondence between NHS Pensions and the Surgery, and, ultimately, when the matter was finally resolved with Dr Singh in 2019 when it was agreed that the outstanding employer and employee contributions amounted to £24,723.40.

53. The Tribunal notes that Dr Singh has now taken responsibility for the deficit by agreeing to pay it from her own pension fund, but the issue for the Tribunal was whether she failed to ensure that adequate systems were in place for correct contributions to be made at the time.

54. The Tribunal had regard to Dr Singh's witness statement which stated:

> *"11. We did have systems within the surgery for staff to raise issues about employment or payroll issues, there was an office manager who reported to the Practice Manager or Deputy Practice Manager, and they would talk to the staff at the Caistor office. I dealt with clinical issues, Mr C dealt with operational issues and usually he would make me aware of those issues.*
>
> *12. I was aware that there were financial issues, mainly through being copied into correspondence which was directly addressed to Mr C. I was also aware that some staff had concerns about pension contributions and I recall having conversations with them to reassure them that I was aware that Mr C, his team and the Practice Manager were working to resolve and reconcile the issues. It*

was entirely appropriate for the payroll and pensions to be dealt with by an external payroll company and for financial issues to be dealt with by my co-director Mr C and his team. This was clearly recognised by NHS Business Services Authority (NHSBSA Team) and their correspondence was primarily directed to Mr C and his team. Unfortunately the payroll company had made errors, there had been overpayments as well as underpayments, and the reality was that over a long period of time there were communications between Mr C and his team with NHSBSA to try to exchange information to determine what figure was actually owed in respect of the pensions".

55. The Tribunal considered Dr Singh's oral evidence which it found to be vague and inconsistent in describing how she fulfilled her responsibility to oversee financial matters, as the PMS contract holder. For example, in her statement, Dr Singh said that operational and financial issues were dealt with by Mr C, yet in her oral evidence, she said that she, and Mr C would, when necessary, discuss financial matters at home and had regular meetings with their accountant. However, when given the opportunity by the Tribunal, Dr Singh did not demonstrate that in her meetings with the accountant she had shown the professional curiosity that she ought to have shown given the overwhelming email evidence of systems failure with pension contributions.

56. The Tribunal bore in mind that Dr Singh was giving evidence about events which occurred eight to eleven years ago. It could find no contemporaneous documentary evidence to suggests that Dr Singh had intervened sufficiently when she was made aware of the pension problem. The Tribunal also noted that this was also Mr C's evidence in stating:

"Dr Singh had very limited involvement in financial matters, her focus was on the clinical management of Ashwood Surgery.

57. The Tribunal took the view that it was a matter for Dr Singh, as the PMS contract holder, as to how she fulfilled her responsibilities for the payment of correct contributions to the NHS Pension Scheme, and that it was within accepted practice that those responsibilities be delegated. Mr E, for example, gave evidence that most GPs would designate financial matters to an employee at its practice, but would normally maintain financial oversight, by meetings with this employee throughout the year and a yearly meeting with their accountant.

58. The Tribunal took the view that Dr Singh had overall responsibility to ensure that the correct contributions were paid, and that, within that overall responsibility, there was a requirement to ensure that adequate systems were in place to do this. The Tribunal was satisfied from the documentary evidence that Dr Singh knew that payments were not being

made as required within a few months of her becoming the sole contract holder, and that this remained the position until her contract was terminated. The Tribunal was satisfied that Dr Singh did little to ascertain what had gone wrong or what was needed to resolve the issue notwithstanding the significant efforts made by NHS Pensions to draw her attention to the problem. The Tribunal was satisfied that Dr Singh failed to ensure that adequate systems were in place for correct staff pensions to be paid to NHS Pensions.

59. Accordingly, the Tribunal found paragraph 1(a) of the Allegation proved.

60. The Tribunal then considered paragraph 1(b) of the Allegation.

61. The Tribunal has already found that Dr Singh had the responsibility as the sole PMS contract holder to fulfil the obligations set out in the Regulations and the Employers Charter. The Tribunal reminded itself that the role of the Employing Authority under is:

> *"Collecting employer and employee Scheme contributions and submitting them on a monthly basis to NHS Pensions. This includes ensuring that the correct contribution bandings are applied"*

and to:

> *Deduct employee tiered contributions and forward these along with employer contributions directly to NHS Pensions by the 19th day of month end….'*

62. The Tribunal noted that payments of contributions to NHS Pensions were repeatedly and frequently not paid by the 19th of the month following the month in which earnings were paid to the Surgery's employees, and therefore not on time.

63. The Tribunal noted that in 2019 Dr Singh accepted that £24,723.40 in employer and employee pension contributions were still outstanding.

64. The Tribunal noted that Dr Singh accepted that she had obligations under the NHS Pensions Scheme to pay the correct employer and employee pensions contributions and to pay these contributions on time. The Tribunal also noted that Dr Singh accepted that she also had an obligation to keep accurate records of employee and employer pension contributions.

65. The Tribunal noted the correspondence referred to above, in its findings regarding 1(a), which shows that Dr Singh knew that contributions were not being paid correctly and on time and that there were payments outstanding at various times during her time as PMS contract holder.

66. The Tribunal decided that, for the same reasons as it has provided regarding paragraph 1(a), Dr Singh retained overall responsibility to ensure that the correct contributions were paid to NHS Pensions, and the responsibility remained hers notwithstanding having delegated the management of the tasks involved to another person, in this case Mr C, his team, and outsourced third-party providers. As before, the Tribunal was satisfied from the documentary evidence that Dr Singh knew within a few months of becoming the sole PMS Contract holder that the systems operated by the Surgery were not calculating the correct pension payments and that this remained the position until her contract was terminated. The Tribunal was satisfied that Dr Singh did little to ascertain what had gone wrong or what was needed to resolve the issue notwithstanding the efforts made by NHS Pensions to draw her attention to the problem. The Tribunal was therefore satisfied that Dr Singh failed to ensure that the correct employer and/or employee contributions for staff pensions were paid to NHS Pensions.

67. Accordingly, the Tribunal found paragraph 1(b) of the Allegation proved.

Paragraph 2 of the Allegation

68. The Tribunal then considered paragraphs 2(a) and 2(b) of the Allegation.

69. The Tribunal firstly considered each of these paragraphs with regard to Ms A, who was a nurse who worked at the Surgery between late 2012 and March 2014.

70. In her evidence, Ms A describes raising concerns about underpayment of her salary in September 2013. The Tribunal noted that the allegation relates to her concerns about her pension and has therefore disregarded Ms A's concerns about salary as they do not form part of this paragraph of the Allegation.

71. The Tribunal noted that Ms A's concerns about her pension arose after she received a letter from NHS Pensions stating that she had not made contributions to the Pension Scheme for a year. In her witness statement Ms A stated:

> *"I initially mentioned receiving this letter to other staff at the Surgery. Some of the staff subsequently checked and, as far as I am aware (from what they told me), also found out that some of their pension contributions had not been paid.*
>
> *I then spoke to both the acting Practice Manager, Ms H, and Dr Singh about this. Ms H deferred to Dr Singh and Dr Singh told me not to worry about it and that Mr C would sort it".*

72. The Tribunal noted that when Ms A was asked about this in cross-examination by Mr Peacock, Ms A agreed that all financial matters at the Surgery were discussed with Mr C rather than Dr Singh. The Tribunal noted that this was consistent with the evidence of the other witnesses from the surgery. Ms A also stated that the only time she spoke to Dr Singh about financial matters was with regard to the wages issue and not the pensions matter. The Tribunal noted that in re-examination by Mr Claxton, Ms A contradicted her own evidence, stating that she had spoken to the Practice Manager and then to Dr Singh on a separate occasion about the pensions matter, and that Dr Singh had shrugged it off and referred her to Mr C.

73. The Tribunal considered Ms A's evidence in this respect to be inconsistent. It bore in mind that she had made her witness statement nearly five years after the conversation took place and was now giving evidence about it nearly ten years later. The Tribunal took the view that after such a lengthy period, it could not rely on Ms A's recollection about what was likely to have been a brief conversation.

74. The Tribunal noted that Ms A did raise the pension problem in an email to Mr C on 19 December 2013 and that Mr C replied telling her to speak to the Practice Manager. However, the Tribunal noted that Dr Singh was not copied in to these emails, nor was there reference in them to Dr Singh having been made aware of the issue. The Tribunal noted that there was no further contemporaneous documentation showing that Ms A raised her pension concerns with Dr Singh.

75. Having considered this evidence, the Tribunal was not satisfied that the stem of paragraph 2 of the Allegation was proved. It was therefore not satisfied that Dr Singh was required to undertake the actions described in paragraph 2(a) and 2(b).

76. Accordingly, the Tribunal, found 2(a) and 2(b) not proved with regard to Ms A.

77. The Tribunal considered paragraph 2 of the Allegation with regard to Ms B. Ms B worked at the Surgery as the Practice Manager for a short period only, between January 2014 and March 2014.

78. The Tribunal had regard to Ms B's witness statement, which was submitted as hearsay evidence. For reasons set out in a document agreed between the parties, Ms B did not give oral evidence. In her statement, Ms B described being made aware of a pension problem by members of staff soon after she took up her role in January 2014. She stated (emphasis by the Tribunal):

*"I recall looking into the matter but, **given the passage of time that has passed, I do not recall much detail about my specific actions**. I do remember speaking to Dr Singh and Mr C about these issues and from memory they were adamant that they had paid contributions and they directed me towards NHS Pensions to find out more.*

*With regard to the discussions with Dr Singh and Mr C, **I cannot remember them in detail or exactly when or how these took place. I would presume** that I spoke with Mr C via telephone as this was our main method of communication: whenever I emailed him, I would generally get one word answers in reply or he would respond by calling me by telephone.*

*In relation to speaking to Dr Singh, this **would have likely been** in person **but I cannot remember it**. I cannot recall what Dr Singh said to me in relation to any query about the pensions **but I would anticipate** she told me to speak to Mr C about it. With regard to any matters I raised with Dr Singh she would generally tell me to call Mr C on the telephone. Dr Singh always stated that she did not deal with any matters that did not related to the medical profession as she was purely there to treat patients and that Mr C was the business manager"*.

79. The Tribunal considered the relevant contemporaneous documentation and noted that Ms B was involved in correspondence with NHS Pensions about the concerns raised by staff at the Surgery. However, the Tribunal noted that Dr Singh was not sent or copied into this correspondence.

80. The Tribunal noted that Dr Singh denied the allegation concerning Ms B for the reasons set out above, and that she did not accept the contents of her hearsay statement.

81. The Tribunal decided that, irrespective of any considerations as to the weight to be attached to Ms B's statement as hearsay evidence, at its highest it was insufficient to show that Ms B had raised pension concerns with Dr Singh directly. The Tribunal found paragraph 2(a) and 2(b) not proved with regard to Ms B.

82. Accordingly, the Tribunal, found 2(a) and 2(b) not proved with regard to Ms B.

Paragraph 3 of the Allegation

83. The Tribunal then considered paragraph 3 of the Allegation.

84. The Tribunal noted that the stem of the allegation referred to letters and emails which were said to have been sent or copied to Dr Singh. The Schedule refers to two letters sent on 21 March 2014 and 24 July 2014, and three emails which she was copied into dated 30 April 2015, 19 June 2015, and 28 August 2015. The Tribunal noted there was no dispute that the two letters had been sent nor that Dr Singh had been copied into the emails.

85. The Tribunal noted Dr Singh's response to paragraph 3(a) of the Allegation:

> *'I accept that I was copied into some correspondence about staff pensions including the emails of 30 April 2015 and 19 June 2015 referred to in Schedule 1 to the Charge. NHS BSA were communicating directly with Mr C and his team, and efforts were being made to determine the amount owed and to repay that. Repayments were made towards the sum owed.*
>
> *Regrettably I did not receive some of the correspondence including the letter of 21 March 2014 and the letter of 24 July 2014 referred to in Schedule 1 to the Charge. Some of the post appears to have gone astray with one letter on its face being signed for by someone who was not me. I did not receive the email of 28 August 2015 referred to in Schedule 1 to the Charge, no longer having access to my NHS email address.'*

86. With regard to the letters, Dr Singh further described the problems with the post:

> *'I did not receive all of the correspondence about pension issues. Post within the building would not go directly to me, it was accessed by others and there was a time when there was a dispute within the building about facilities and I subsequently became aware that post meant for me was going astray. Post was collected by the building/facilities manager who was part of the dispute. We later insisted that the postman delivered post directly to the Surgery reception and that special delivery items were signed for by the Practice Manager. The letter of 24 July 2014 addressed to me was not received by me and the Special Delivery slip was not signed by me. The printed name on the slip is "Dr Singe" which is obviously not how my name is spelt and it is unlikely I would have misspelled it. I did not receive this letter. I was at work on 25 July 2014 and the time the document was signed would have been during my surgery.'*

87. The Tribunal considered the correspondence listed in Schedule 1 and the correspondence around the same time as the letters and emails listed. It also had regard to

the evidence from witnesses at the Surgery which confirmed that there were problems with the post at the Surgery from time to time. Their evidence provided some support to Dr Singh's evidence about the problems with the post which the Tribunal accepted. The Tribunal also considered it plausible that because the letters concerned financial matters, the administrative staff may have directed them to Mr C or his team without the knowledge of Dr Singh.

88. Dr Singh accepted that she did not reply to the correspondence. The Tribunal decided that, as a matter of fact, Dr Singh did not reply to the correspondence listed in Schedule 1.

89. Accordingly, the Tribunal found paragraph 3(a) of the Allegation proved as a matter of fact.

90. With regard to the letter dated 21 March 2014, for the reasons already provided regarding paragraph 1 of the Allegation, the Tribunal decided that Dr Singh did receive this letter.

91. With regard to the letter dated 24 July 2014, the Tribunal was not satisfied that Dr Singh signed for the letter or that she received it. Although someone signed the special delivery receipt, the Tribunal was not satisfied that this was Dr Singh. The Tribunal decided that no blame could be attributed to Dr Singh for not responding to a letter she did not receive.

92. The Tribunal noted that subsequent to this letter being sent there was reference to it in further emails. In two emails dated 26 August 2014, Mr C stated that the letter had not been received. In his response dated 27 August 2014, Mr L attached a copy of the special delivery receipt, but he did not attach a copy of the original letter. The Tribunal was therefore also not satisfied that Dr Singh received the letter at a later date and thus would not have had an opportunity to reply to it.

93. Regarding the email dated 28 August 2015 into which Dr Singh was copied, the Tribunal noted that Mr E, Mr D, and Ms F, who were the witnesses from the NHS, could not dispute that Dr Singh's email account was closed when the Surgery was taken over by the Roxton Practice on 10 August 2015. The Tribunal noted that there was some confirmation in the evidence of Ms I that NHS email accounts are closed when an employee leaves the NHS. Ms I recalled her own account had been closed when she left the Practice. The Tribunal was therefore not satisfied that Dr Singh received the email dated 28 August 2015. The Tribunal decided that no blame can be attached to Dr Singh for not responding to an email she did not receive.

94. The Tribunal therefore considered paragraph 3(b) only with regard to the letter dated 21 March 2014 and the two emails dated 30 April 2015 and 19 June 2015.

95. The Tribunal noted the contents of the letter and these emails. For example, the email dated 19 June 2015 contained the following:

> *"As you will appreciate this matter has been ongoing for nearly a year, and the position from my perspective has not really moved forward, and therefore I welcome your proposal to urgently resolve the following:*
>
> *…*
>
> *2. Assess the contribution rates applied to all your members (current and those that may have left) and determine any over and underpayments – and arrange plans to repay/refund any contributions*
>
> *3. Provide a reconciliation to support precisely what the practice believes it owes the Scheme – I have been waiting for this for 6 months.*
>
> *4. A repayment plan to pay all arrears due".*

96. The Tribunal considered the letter and the emails in the context of Dr Singh's responsibilities as sole PMS contract holder with regard to pension contributions, the volume of correspondence which had taken place since July 2012 regarding the non-payment, incorrect and late payment of contributions, and Dr Singh's failure to take adequate action, as the Tribunal has found proved in paragraph 1 of the Allegation.

97. The Tribunal considered that the letter and the emails should have served as further warnings to Dr Singh that the problems continued to exist, and that further action was required to resolve those problems, especially that relating to unpaid staff pensions and the arrears which had accrued. The Tribunal considered that, even though Dr Singh was not a direct recipient, she was still under an obligation to act, for example, by responding directly to NHS Pensions, and making sure that any unpaid contributions were paid.

98. In her statement, Dr Singh said:

> *'In respect of email correspondence I was copied into, there was no requirement for me to personally respond to this as it was not addressed to me. I liaised with my husband and his team to make sure matters were being progressed and my understanding was that there were ongoing communications with NHS BSA to determine the amount due and to make a repayment plan for this.'*

99. The Tribunal considered that by this time, Dr Singh was well aware that the problem of unpaid contributions was long-standing, persistent, ongoing, and that it was becoming more serious and urgent. Dr Singh was aware that Mr C and his team had not resolved the issue over a long period. The Tribunal considered that by liaising with Mr C and again relying on him to resolve the matter was doing no more than maintaining the status quo and was not adequate action on her part. The Tribunal decided that Dr Singh's actions were not an effective or adequate response to the continuing problem regarding unpaid pensions contributions.

100. Accordingly, the Tribunal found paragraph 3(b) of the Allegation proved with regard to the letter dated 21 March 2014 and the emails dated 30 April 2015 and 19 June 2015.

101. For the reasons given above, the Tribunal therefore considered paragraph 3(c) only with regard to the letter dated 21 March 2014 and the emails dated 30 April 2015 and 19 June 2015.

102. The Tribunal noted that, in his submissions, Mr Claxton on behalf of the GMC explained that the difference between paragraph 1(b) and this paragraph is that paragraph 1(b) focusses on the position of staff, whereas this paragraph focusses on Dr Singh's obligations as sole contract holder under the Regulations.

103. The Tribunal considered the obligations Dr Singh had under the PMS contract and Pension Regulations which were in addition to ensuring there were no arrears. The Tribunal noted the following as examples: keeping staff pensions records updated, paying pensions contribution within 19 days of the month, submitting GP1 forms in a timely manner; and annual returns to NHS Pensions.

104. The Tribunal decided that, for the same reasons as in paragraph 3(b), the actions taken by Dr Singh in response to the letter 21 March 2014 and the emails dated 30 April 2015 and 19 June 2015 were neither effective nor adequate.

105. Accordingly, the Tribunal found paragraph 3(c) of the Allegation proved with regard to the letter dated 21 March 2014 and the emails dated 30 April 2015 and 19 June 2015.

Paragraph 4 of the Allegation

106. The Tribunal noted Dr Singh's admission to paragraph 4(a) of the Allegation. Dr Singh admitted that she knew that the correct employer and/or employee contributions for staff members had not been paid.

107. The Tribunal decided that it did not follow from her admission that Dr Singh also knew that underpayments resulted in the Surgery retaining funds to which it was not entitled which is what is alleged in paragraph 4(b). It noted from the evidence of Mr D that, as a matter of fact, this was a consequence of the underpayments, but the issue for the Tribunal was whether Dr Singh knew this.

108. The Tribunal considered the documentary evidence. It noted that there was reference to this possibility in the e-mail dated 30 April 2014, which Dr Singh was copied into:

> *"As the practice has taken monies from staff salaries, all employee contributions should be paid immediately as a minimum, as this money should be in the practice bank account?"*

109. In her statement, Dr Singh states:

> *"Denied. I thought it was probable that we would have a liability but I didn't know this for certain – some pensions had been overpaid - and I didn't know how much."*

And:

> *"Denied. I knew that correct contributions had not been paid. I thought it likely that there was an underpayment of staff member pensions. Mr C took responsibility for the pensions issues and I know that he, his finance manager Ms M and my Practice Manager Ms H made significant efforts to resolve pensions issues as quickly as was possible. I am sorry this was not done sooner."*

110. In her evidence to the Tribunal, Dr Singh accepted 'in part' that underpayments of pensions contributions would result in the Surgery having money to which it was not entitled. However, the Tribunal considered this response to be one provided, perhaps, with the benefit of hindsight, rather than reflecting Dr Singh's state of knowledge at the time the underpayments were made.

111. The Tribunal had regard to its previous findings that Dr Singh had delegated financial matters to Mr C, that this division of responsibilities was strictly adhered to, and this resulted in Dr Singh failing to take action to fulfil her responsibilities. It had regard to the evidence of Mr D and Ms F that administration at the Surgery was poor, and that Dr Singh described it as a 'mess'. The Tribunal had regard to its findings that Dr Singh had not taken adequate action to ensure that the Surgery was complying with the NHS Pension Scheme requirements and that she had not fulfilled her responsibilities under the PMS contract.

112. The Tribunal considered that, had she fulfilled those responsibilities properly and adequately, it may have been that she would have had, not only a greater understanding about the systems for paying pension contributions, but also the consequences of not paying. However, the Tribunal considered that she did not have this level of understanding about the NHS Pension Scheme requirements, nor about the systems and processes behind the financial management of the Surgery.

113. In these circumstances, the Tribunal was not satisfied that Dr Singh had sufficient knowledge or understanding of the NHS Pension Scheme, nor of the financial affairs of the Surgery, to know that by underpaying pensions, the Surgery was retaining funds to which it was not entitled.

114. Accordingly, the Tribunal found paragraph 4(b) of the Allegation not proved.

Paragraph 5 of the Allegation

115. The Tribunal next considered paragraph 5 of the Allegation.

116. The Tribunal went on to considered Dr Singh's conduct as outlined in 1(b) and 3(b) against the knowledge as admitted in 4(a).

117. The Tribunal had to consider whether Dr Singh was dishonest in failing to take adequate action and failing to ensure that the correct contribution staff pension contributions had been paid knowing that the correct contributions had not been paid.

118. The Tribunal considered the test for dishonesty as set out in *Ivey v Genting Casinos UK LTD [2017] UKSC 67*.

119. Dr Singh admitted that she knew that the correct employer and/or employee contributions for staff members' pensions had not been paid.

120. The Tribunal then considered whether this conduct was dishonest by applying the standards of ordinary decent people.

121. The Tribunal was of the opinion that ordinary decent people would understand that it was possible for a busy clinician to get into a 'mess' with financial matters which they thought they had correctly delegated to others. Whilst they might not approve of the financial state of

affairs which Dr Singh's inactions allowed to develop, they would recognise that dishonesty was of a totally different order and would not consider that Dr Singh had been dishonest.

122. Accordingly, the Tribunal found paragraph 5 of the Allegation not proved.

The Tribunal's Overall Determination on the Facts

123. The Tribunal has determined the facts as follows:
That being registered under the Medical Act 1983 (as amended):

1. Whilst working as a General Practitioner ('GP') at Ashwood Surgery ('the Surgery'), as the sole Personal Medical Services contract holder, you failed to:

    a. ensure the Surgery had adequate systems in place for correct staff pension contributions to be paid to NHS Pensions; **Determined and found proved**

    b. ensure that the correct employer and/or employee contributions for staff pensions were paid to NHS Pensions; **Determined and found proved**

    c. comply with your obligations under the NHS Pension Scheme Regulations ('the Regulations'), in that you did not:

        i. send Scheme contributions to NHS Business Service Authority within 19 days of the month following the month in which the earnings were paid; **Admitted and found proved**

        ii. keep records of all contributions deducted from salaries and wages, and update member pension records within two calendar months of the end of the financial year. **Admitted and found proved**

2. On dates between in or around November 2013 and in or around March 2014, Ms A and Ms B, staff members, sought to raise concerns with you in relation to staff pensions and you did not undertake adequate action to:

    a. check the position of any problem with the staff pensions; **Not proved**

    b. resolve any problem with the staff pensions. **Not proved**

3. As set out in Schedule 1, between 21 March 2014 and 28 August 2015, you were sent and/or copied into correspondence about staff pensions at the Surgery and you:

    a. did not personally respond to the correspondence; Determined and found proved

    b. failed to take adequate action to ensure that the unpaid staff pension contributions were paid to NHS Pensions; Determined and found proved in relation to the letter dated 21 March 2014 and the emails dated 30 April 2015 and 19 June 2015

    c. failed to take adequate action to meet your obligations under the Regulations. Determined and found proved in relation to the letter dated 21 March 2014 and the emails dated 30 April 2015 and 19 June 2015

4. You knew that:

    a. correct employer and/or employee contributions for staff members' pensions had not been paid; Admitted and found proved

    b. underpayment of staff members' pensions meant that the Surgery had retained funds to which it was not entitled. Not proved

5. Your conduct at paragraphs 1b and 3b was dishonest by reason of paragraph 4. Not proved

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

Determination on Impairment - 05/10/2023

124. 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 Singh's fitness to practise is impaired by reason of misconduct.

The Evidence

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

126. Dr Singh provided her own reflective statement dated September 2023 and also gave oral evidence at the hearing. In her evidence, Dr Singh told the Tribunal about the wider context in which the events took place. This included her family circumstances and health, the challenges the Practice faced in terms of financial strains and the new ways of delivering services that GPs were subject to at the time. She told the Tribunal that, at the time, she felt that her primary concern was patient care and the delivery of primary services and so had believed that her involvement in administrative matters ended at delegating them to Mr C. Dr Singh accepted that she had neglected her obligations and had continued to delegate responsibility inappropriately. She said that, looking at what had happened retrospectively, she had fallen far short of her moral and contractual obligations to NHS England, NHS Pensions, her staff, and the public. She said she was truly sorry.

127. Dr Singh told the Tribunal that she currently lives in Canada, does not work in a comparable position and had no plans to return to clinical work. She assured the Tribunal that, in the future, she would not be in a position to repeat the same mistakes she had made at the Practice. She said that her career plans involved remaining in consultancy work for non-profit organisations and to retire in 10 to 15 years when her children are grown up. Dr Singh told the Tribunal that, although she had no plans or desire to return to clinical practice, it was not a door that she wanted to shut completely as Nova Scotia suffered from a shortage of doctors. However, she reiterated that all her plans are for life in Canada, where she has permanent residency status and expects to gain full citizenship in the near future.

128. Dr Singh told the Tribunal that her actions were serious because of the huge impact that they had on staff and colleagues at the Practice as well as the knock-on effects to management, and NHS England and NHS Pensions having to investigate and resolve the issues. Dr Singh acknowledged that the Practice had problems with recruitment and retention but did not accept that this was due wholly to the financial mismanagement at the Practice.

129. Dr Singh told the Tribunal that she accepted the findings made by the Tribunal at the facts stage of the hearing. Although she had reflected on events prior to the facts stage, it was not until listening to the evidence and then reflecting on it, and on the Tribunal's determination on the facts, that she fully understood the huge impact on others, including her employees, caused by her failures to ensure systems were in place regarding the payment of pensions contributions.

130. The Tribunal also received in support of Dr Singh three testimonials from colleagues and friends, all of which it has read.

Submissions

131. On behalf of the GMC, Mr Claxton, Counsel, submitted that the issue of misconduct is one for the Tribunal's judgement alone and that it must comprise actions that do not just fall short, but fall far short of the standards to be expected of a doctor. He submitted that the financial mismanagement at the Practice created an obvious risk of financial detriment to staff, and a risk to the recruitment and retention of staff, which created a real prospect of a detrimental impact on the delivery of services which would put patients at risk.

132. Mr Claxton submitted that Dr Singh had good notice of the irregularities, which had taken place over a prolonged period of time and had failed to take action. He submitted that the long period over which Dr Singh failed to act meant that her actions amounted to serious misconduct. He submitted that a finding of impairment was needed to maintain proper professional standards in the profession and to uphold public confidence.

133. On behalf of Dr Singh, Mr Peacock, Counsel, said that misconduct is a matter for the Tribunal and as such is not capable of being admitted by a doctor. However, in light of Dr Singh's oral evidence, he stated that he would make no further submissions on the question of misconduct.

134. Turning to the question of impairment, Mr Peacock reminded the Tribunal that misconduct and impairment are distinct concepts and a finding of misconduct does not automatically mean that a doctor's fitness to practise is impaired. He stated one deals with the past and one with the future. He reminded the Tribunal that the issue of impairment is a forward-looking exercise and that it should not fall into the trap of equating misconduct in the past with current impairment.

135. Mr Peacock submitted that the Tribunal should have particular regard to Dr Singh's insight and the risk of repetition. He submitted that Dr Singh had shown good insight and that there was no risk of her repeating her actions. He said that this was in part because she has developed insight and in part because her life is now in Canada where her career is not in medicine as a practising clinician but as a consultant. Mr Peacock submitted that Dr Singh understood what went wrong at the Practice, had been able to explain these events and had apologised. He reminded the Tribunal that Dr Singh's failures were born of inaction rather than deliberate action and that she had been blinkered as to the seriousness of her failures.

136. Mr Peacock submitted that there was no patient safety concern in this case and that it rested solely on public interest. He said that Dr Singh undergone the process of these disciplinary proceedings and has had to answer the allegations made against her at a public hearing. This, he submitted, was sufficient to address the public interest. In light of this, Mr Peacock submitted that the Tribunal could safely find that Dr Singh's fitness to practise is not currently impaired.

The Relevant Legal Principles

137. 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.

138. Regarding misconduct, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct and whether any misconduct found was serious and then, whether the finding of serious misconduct led to a finding of impairment.

139. The Tribunal has borne in mind all three limbs of the statutory overarching objective: to protect and promote the health, safety and wellbeing 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 the medical profession.

140. The Tribunal must determine whether Dr Singh's fitness to practise is impaired today, taking into account her conduct at the time of the events in question and any relevant factors since then such as whether she has shown insight, whether the matters are remediable and have been remediated and the likelihood and risk of repetition.

141. In considering impairment, the Tribunal noted the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in CHRE v NMC & Grant (2011) EWHC 927. In particular, the Tribunal considered whether its findings of fact showed that Dr Singh's fitness to practise is impaired in the sense that she:

a. *'Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
b. *Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
c. *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession;*

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

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

142. In the case of *R (Remedy UK Ltd) vs The GMC [2010] EWHC 1245 (Admin)* it was held that conduct can properly be described as linked to the practice of medicine, even though it involves the exercise of administrative or managerial functions, where they are part of the day practice of a professional doctor.

The Tribunal's Determination on Impairment

Misconduct

143. The Tribunal reminded itself of its findings of fact. In particular, it reminded itself that Dr Singh's roles and responsibilities regarding the payment of employer and employee NHS Pension contributions were those of the sole PMS contract holder and "Employing Authority, as set out in paragraphs 19 – 23 of the facts determination.

144. The Tribunal also reminded itself of paragraphs 33 – 58 of the facts determination, in which it found that there were repeated and ongoing failures to make the correct employer and employee contributions to NHS Pensions which persisted over a period of three years, and that she had failed to take adequate action to rectify the problems notwithstanding the receipt of clear and unambiguous correspondence that there were serious concerns.

145. The Tribunal considered that the standards set out in paragraphs 19 – 23 of the facts determination were the standards which should have been met by Dr Singh. It determined that Dr Singh had fallen far short of those standards over a prolonged period of time, and that in failing to take adequate action demonstrated a lack of professional curiosity that would be expected of someone in her position.

146. The Tribunal considered that, by falling short of those standards, there was a potential for employees at the surgery to face a financial deficit in their pension

remuneration with consequent uncertainty and insecurity. The Tribunal considered this potential to be significant and was indicative of the seriousness of Dr Singh's conduct.

147. For these reasons, the Tribunal determined that Dr Singh's conduct fell so far short of the standards of conduct reasonably to be expected of her in the circumstances that it amounted to misconduct which was serious.

Impairment

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

149. The Tribunal considered Dr Singh's level of insight. The Tribunal reminded itself of Dr Singh's evidence that she only fully understood the full gravity of her failings as the evidence emerged during the facts stage of the hearing, and after reading the Tribunal's determination on the facts. The Tribunal noted that there was no significant evidence of insight prior to the start of the hearing but accepted Dr Singh's evidence that her understanding had developed during and since the facts stage.

150. The Tribunal considered that, although Dr Singh had given assurances that she would not find herself in a similar situation in the future, the Tribunal noted that she had not fully explained what she would do if she did find herself in that position. However, the Tribunal accepted that the reason for this was that Dr Singh had decided that she did not want to return to practise in an employer capacity, albeit she did not want to fully rule out a return to clinical practise as an employee.

151. The Tribunal considered Dr Singh's evidence credible that the realisation of the seriousness of her failures came during the and shortly after the facts stage, and that the insight she described was genuine, even if only recently developed.

152. The Tribunal considered that Dr Singh had taken action to remediate her misconduct. It noted that in 2019, she came to an agreement with NHS Pensions that monies owed by her could be deducted from her *'pension pot.'* It noted that she is currently studying for a MA in Health Administration. The Tribunal also noted that at the facts stage and in her evidence at the impairment stage, Dr Singh apologised. At times spontaneously, to NHS England, NHS Pensions, her former employees, and the wider public. The Tribunal considered her apologies to be genuine and sincere.

153. The Tribunal considered the risk of repetition. It considered the circumstances as the time of the misconduct. It was mindful that Dr Singh took over the management of the Practice at a time when there were various factors at play which all coincided, for example, the pre-existing issues at the Practice, changes to the PMS contract and consequent financial pressures, and new ways of delivery NHS services. It also had regard to the evidence of Mr D who said that financial management was a common problem in smaller surgeries as often there is not the necessary infrastructure in place and that the rules are not always fully understood.

154. The Tribunal also considered Dr Singh's current circumstances in that she has now started a new life with her husband and family in Canada, and that she established a role in consultancy rather than in clinical practice. It accepted her evidence that she was not intending to return to clinical practice at the moment but that she could not rule it out given the shortage of doctors where she lives. However, based on her evidence, it considered it unlikely that she would return in an employer capacity, or in the same difficult circumstances as before.

155. For these reasons, the Tribunal considered the risk of repetition to be very low in this case.

156. The Tribunal reminded itself that there were no patient safety concerns in this case. It did not accept Mr Claxton's submissions that Dr Singh's mismanagement of staff pensions meant there was a real prospect of a detrimental impact on delivery of services. There was no evidence to this effect. The evidence received by the Tribunal was that Dr Singh was a good and competent doctor and that, notwithstanding the pension problem, there were no patient safety concerns raised at the time, or since. The Tribunal did not therefore consider the first limb of the overarching objective to be engaged in this case.

157. However, the Tribunal reminded itself that it has found there to be serious misconduct in this case. It noted that the serious misconduct was one of inaction rather than action, and that there was no positive intent or motive on the part of Dr Singh to behave below the standard required. However, it considered that Dr Singh had failed to act over a long period of time, ignored clear warning signs that there was a serious problem, and that her failure to act had the potential to cause significant problems for those who were personally affected in respect of their pensions and their security of income on retirement.

158. In these circumstances, the Tribunal considered that limbs two and three of the overarching objective to be engaged. It determined that Dr Singh's failures were so serious that, in order to maintain public confidence in the profession, a finding of impairment was

necessary. It also considered that it was necessary to make a finding of impairment to uphold proper professional standards and conduct.

159. The Tribunal has therefore determined that Dr Singh's fitness to practise is impaired by reason of her misconduct.

Determination on Sanction - 09/10/2023

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

The Outcome of Applications Made during the Sanction Stage

161. The Tribunal granted Mr Peacock's application, made pursuant to Rule 34(1) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to adduce further evidence, namely the sanction determination in the public Record of Determination of a previous MPT hearing unconnected to Dr Singh. On behalf of the GMC, Mr Claxton did not oppose this application.

The Evidence

162. The Tribunal has taken into account evidence, including testimonial evidence, received during the earlier stages of the hearing where relevant to reaching a decision on sanction. The Tribunal has also taken into account the additional evidence received at this stage.

Submissions

163. On behalf of the GMC, Mr Claxton submitted that the appropriate sanction in this case was a period of suspension.

164. Mr Claxton submitted that the major aggravating factor in this case was the length of time that the financial mismanagement persisted, a period of around three years. He said that the Tribunal should keep this at the front of its mind when considering the seriousness of Dr Singh's misconduct. Mr Claxton said that the mitigating factors included the length of time since the events, Dr Singh having no other regulatory concerns before or since the events and the fact that no harm was done to patients.

165. Mr Claxton submitted that it would not be appropriate for the Tribunal to take no action. He submitted that there must be exceptional circumstances, which he defined as special, unusual or uncommon, in order to justify taking no action as set out in paragraphs 68 – 70 of the Sanctions Guidance (2020) ('the SG'). He submitted that the nature and gravity of the impairment that had been found was incompatible with taking no action.

166. Mr Claxton submitted that conditions would not be appropriate in this case. He said that they would not be workable, owing to Dr Singh not living or practising in the UK, and are most appropriate in cases that deal with the doctor's health, performance, knowledge of English or other specific concerns, none of which apply in this case.

167. Mr Claxton referred the Tribunal to paragraphs 91 – 98 of the SG, which deal with suspension and submitted that, as Dr Singh's misconduct was not fundamentally incompatible with continued registration, a period of suspension would be the appropriate sanction in this case. Mr Claxton remained neutral on whether a review should be directed but invited the Tribunal to consider this, depending on the length of suspension.

168. On behalf of Dr Singh, Mr Peacock submitted that it would be appropriate to take no action in this case. He referred the Tribunal to its findings at the facts and impairment stages, submitting that Dr Singh had made some admissions, that there is no paragraph in GMP that applies to Dr Singh's misconduct, and that the Tribunal had found no dishonesty. He submitted that the Tribunal had found Dr Singh had not acted inappropriately at the outset of events when she had delegated tasks to Mr C, and that her misconduct was by omission at a later stage. Mr Peacock adopted his submissions made at the impairment stage regarding Dr Singh's level of insight and reminded the Tribunal of its finding that there was no issue of patient safety in this case.

169. Mr Peacock submitted that, where impairment was found only by reference to the public interest, the finding of impairment itself is sufficient to mark that interest and no formal action is required beyond that.

170. Mr Peacock acknowledged that the SG sets out that there must be exceptional circumstances to justify taking no action and submitted that this was such a case. He submitted that there was overwhelming and significant mitigation including Dr Singh's insight and remediation, no previous findings having been made against her, no training on pension administration was provided in her medical training, and she is no longer practising as her career has now taken a different route. Mr Peacock reminded the Tribunal that at the time of the misconduct Dr Singh was working as the sole principal in challenging circumstances, both

professional and personal. He reminded the Tribunal that the events occurred many years ago and Dr Singh has since made a new life in a new country and a new work sector.

171. Mr Peacock submitted that the Tribunal has already found the risk of repetition to be very low and that the financial deficit has been made good. He remined the Tribunal of Dr Singh's evidence that she was not going to be taking on employer positions which would require the administration of pensions. Mr Peacock also reminded the Tribunal that it had found Dr Singh's insight, as well as her apology, to be credible and genuine.

172. Mr Peacock submitted that the above points were strong mitigating factors and that there were no aggravating factors beyond the threshold requirements to find misconduct.

173. Mr Peacock referred the Tribunal to paragraphs in the cases of *Wallace v SOS for Education [2017] EWHC 109 (Admin)* and *PSA v NMC [2017] CSIH 29*, which he submitted supported the Tribunal in taking no action on the basis that professional standards and public confidence could be upheld by a rigorous regulatory process which resulted in a finding of misconduct.

174. Mr Peacock submitted that this was not a case of public protection and, taking into account the mitigating factors above, the Tribunal could take no action.

175. Mr Peacock agreed that conditions would not be appropriate in this case.

176. Mr Peacock submitted that an order of suspension would be meaningless in this case as Dr Singh did not need to be deterred or punished, nor did the public need to be protected, but in the alternative, if the Tribunal considered suspension to be the appropriate sanction, it should be measured in days rather than weeks and should be without a review.

The Tribunal's Determination on Sanction

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

178. In reaching its decision, the Tribunal has taken account of the SG and of the overarching objective. It has borne in mind that the purpose of the sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.

179. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Singh's interests with the public interest. It also considered and balanced the

mitigating and aggravating factors in this case. It reminded itself that it should only impose the minimum sanction necessary to address the overarching objective. In deciding what sanction, if any, to impose the Tribunal considered each of the sanctions available, starting with the least restrictive.

Aggravating and mitigating factors

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

181. The Tribunal identified the following aggravating factors:

- the misconduct was persistent and ongoing over a three year period. However, the Tribunal acknowledged that this duration was, in part, because of the pensions agency who, on admissions from witnesses during evidence, was unwilling to make a prompt referral to the pensions regulator. The Tribunal considered that, had the pensions agency used the regulatory tools at its disposal in a timely manner, the duration of the misconduct could have been curtailed.

182. The Tribunal identified the following mitigating factors:

- there have been no other findings of misconduct against Dr Singh either before or after the misconduct in question;
- the lapse of time since the misconduct took place (some 8 to 11 years ago);
- there were no concerns about patient safety;
- the misconduct took place in challenging circumstances after Dr Singh took over a practice which was already failing;
- Dr Singh had no previous experience or training in the administration of staff pensions;
- there were also challenging personal circumstances in that Dr Singh had one young child and was pregnant for some of that time;
- Dr Singh has shown insight and has remediated.

No action

183. The Tribunal first considered whether it would be appropriate to take no action in this case. The Tribunal had regard to its findings that there was serious misconduct which persisted over a prolonged period of time. The Tribunal accepted that this was not a case of dishonesty or patient safety and noted that Dr Singh had shown credible insight and

remediation, and that she was no longer practising nor resident in the UK. It reminded itself that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

184. The Tribunal considered the various factors raised in Mr Peacock's submissions but, whilst accepting them to be mitigating factors, did not consider them to constitute exceptional circumstances individually or cumulatively, including the fact that its findings of misconduct and impairment have been made in a public hearing.

185. The Tribunal decided that, given the seriousness of the misconduct, it would not be sufficient, proportionate, or in the public interest to conclude the case by taking no action.

Conditions

186. The Tribunal next considered whether to impose conditions on Dr Singh's registration. It considered whether an order of conditions would be workable, measurable, appropriate and proportionate.

187. It determined that conditions would not be appropriate in this case due to the nature of Dr Singh's misconduct and the circumstances of her living and working abroad. It was also of the view that imposing conditions on Dr Singh's registration would not sufficiently mark the seriousness of the misconduct, nor adequately address the need to maintain public confidence or proper professional standards.

Suspension

188. The Tribunal then considered if suspension would be the appropriate sanction in this case.

189. The Tribunal had regard to the relevant paragraphs of the SG, which included:

> *'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 (see paragraphs 24–49).

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

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

…

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

f No evidence of repetition of similar behaviour since incident.

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

190. The Tribunal noted that the GMC in this case had not suggested that there had been a breach of GMP. It was of the view that paragraph 97 e, f and g of the SG were engaged in this case.

191. The Tribunal considered that Dr Singh's misconduct was so serious that action needed to be taken to maintain public confidence in the profession but was not fundamentally incompatible with continued registration in the circumstances of this case. It noted paragraph 91 of the SG and considered that imposing an order of suspension in this case may have a deterrent effect and send an appropriate signal to the profession and the public. It

considered that there were no significant factors present which would indicate that the more serious sanction of erasure was required.

192. The Tribunal had regard to the several mitigating factors in the case. It was satisfied that Dr Singh showed genuine insight and did not pose a risk of repeating her misconduct. It accepted that she had acknowledged her fault in the events.

193. In these circumstances, the Tribunal determined that a period of suspension was the appropriate and proportionate sanction in this case. This would send out the necessary signal to Dr Singh, the profession and the public about what it regarded as unacceptable behaviour for a registered doctor and would also maintain public confidence and professional standards.

Length of Suspension

194. The Tribunal then considered the length of the order.

195. In determining the length of the suspension, the Tribunal had regard to paragraph 100 of the SG:

> *'100 The following factors will be relevant when determining the length of suspension:*
>
> *a the risk to patient safety/public protection*
>
> *b the seriousness of the findings and any mitigating or aggravating factors (as set out in paragraphs 24–60)*
>
> *c ensuring the doctor has adequate time to remediate.'*

196. The Tribunal reminded itself that there were no patient safety concerns in this case, that Dr Singh had remediated and that there were factors mitigating the misconduct. The Tribunal considered that the order of suspension did not need to give Dr Singh time to remediate or develop insight. In light of this, it determined that a period of one month suspension would send an appropriate message to the public and was sufficient to mark the public interest and maintain public confidence.

197. The Tribunal determined not to direct a review in this case, having regard to the findings it made at the impairment stage about insight and remediation.

Determination on Immediate Order - 09/10/2023

198. Having determined that an order of suspension should be imposed upon Dr Singh's registration for a period of one month, the Tribunal must consider, in accordance with Rule 17(2)(o) of the Rules, whether Dr Singh's registration should be subject to an immediate order.

Submissions

199. On behalf of the GMC, Mr Claxton submitted that the GMC did not seek an immediate order in this case.

200. On behalf of Dr Singh, Mr Peacock submitted that an immediate order was not necessary as there were no patient safety concerns in this case.

The Tribunal's Determination

201. The Tribunal had regard to paragraphs 172 to 178 of the SG. It took account of the guidance, the submissions of both parties and the specific basis upon which the Tribunal reached its determination on sanction.

> *'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.*
>
> *173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.*
>
> *178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive*

direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.'

202. The Tribunal reminded itself that there were no patient safety concerns in this case, nor was an immediate order in Dr Singh's interests or necessary to maintain public confidence.

203. In these circumstances, the Tribunal determined not to impose an immediate order.

204. Case concluded.

ANNEX A – 20/02/2023

Application under rule 29(2) – 20/02/2023

205. On 20 February 2023, at the end of the facts stage and before the impairment stage had begun, the Tribunal received an application on behalf of Dr Singh to consider an adjournment under Rule 29(2) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'), for adjournment of the hearing.

Submissions

On Behalf of Dr Singh

206. Mr Henry Bankes-Jones, standing in for Mr Peacock, informed the Tribunal that over the weekend XXX. As a result he was not in a position to continue representing Dr Singh for the remainder of the time for which the hearing was listed (until 24 February). He therefore applied to adjourn the hearing.

207. Mr Bankes-Jones submitted that, given that Mr Peacock has represented Dr Singh on these matters, since 2019, it would not be practicable or fair on Dr Singh for alternative representation to be found in the short time available for the case to be continued at any stage this week.

On Behalf of the GMC

208. Mr Claxton responded by stating that the GMC took a neutral stance regarding the application.

209. Mr Claxton noted that it would be difficult for alternative counsel to fully be acquainted with the evidence or issues in the case and would not have the benefit of a handover with Mr Peacock.

The Tribunal's Decision

210. In considering the application, the Tribunal noted the Legally Qualified Chair's advice that it should consider the overarching objective, the likely delay if the case was adjourned, and fairness to both parties.

211. The Tribunal noted that Dr Singh has been represented by Mr Peacock since 2019 in this case in which it had already received oral evidence from several witnesses including Dr Singh, and a considerable amount of documentary evidence. It noted that the case concerned matters that occurred some ten years ago and that there had already been delay in hearing the matter.

212. The Tribunal also noted that the GMC did not oppose this application.

213. In the circumstances, the Tribunal concluded that, whilst a further delay may be inconvenient and regrettable, it was fair and just to allow the application so that Mr Peacock could continue to represent Dr Singh.

214. XXX.

Schedule 1

Date	From	Details
21 March 2014	NHS Business Services Authority	Letter Staff pension contributions between December 2013 to February 2014 not received: amount unpaid is estimated to be approximately £4,950.00 Also member records that have not been correctly updated. Action required within 14 days
24 July 2014	NHS Business Services Authority	Letter Staff pension contributions dating back to December 2013 not received: amount unpaid is estimated to be approximately £11,500.00. Also 10 staff member records that have not been correctly updated. Action required within 7 days
30 April 2015	NHS Business Services Authority	Email (copied to you) Pension matters still not resolved – queries raised. 'As the practice has taken monies from staff salaries, all employee contributions should be paid immediately, as a minimum as this money should be in the practice bank account?'
19 June 2015	NHS Business Services Authority	Email (copied to you) Pension matters still not resolved. Concerns about 'the validity of either [the] update of the member records,

		and/or the contributions and rates taken from salaries from 2013-14/2014-15 and the employer rate applied … At face value it looks as though the practice owes circa £20,000 for 2013-14, and £20,000 in 2014-15 – clearly no contributions have been paid from September 2014? I do not know what may be due for 2015-16 as I really have no idea of what [the] current monthly contributions actually are? So the practice may well owe in excess of £40,000?' Action required within 14 days
28 August 2015	NHS Pension	Email 'You have now defaulted on the agreement to continue to pay on current monthly contributions' – there have been no contributions for July 2015. Action required within 14 days or 'this matter will be escalated … and Dr Singh may be referred to the Pensions Regulator and the NHS Pensions Board due to continual and multiple breaches of the NHS Pensions Regulations.'