

PUBLIC RECORD

Dates: 02/01/2024 - 04/01/2024

Medical Practitioner's name: Dr Robert VARNAM
GMC reference number: 4188221
Primary medical qualification: MB ChB 1995 University of Manchester

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

Summary of outcome

Erasure
Immediate Suspension

Tribunal:

Legally Qualified Chair	Mrs Fiona Barnett
Lay Tribunal Member:	Mr Andrew Galliford-Yates
Medical Tribunal Member:	Dr Neil Smart

Tribunal Clerk:	Ms Hinna Safdar
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Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Lee Hughes, Counsel, instructed by Olliers Solicitors
GMC Representative:	Ms Georgina Goring, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts & Impairment - 03/01/2024

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

Background

2. Dr Varnam qualified in 1995 and, prior to the events which are the subject of the hearing, practised as a junior doctor at various hospitals around Manchester before taking a role as a GP registrar, and later a salaried GP Principal, at the Robert Darbishire Practice. Dr Varnam also worked as the Director of General Practice Development and Clinical Lead – Primary Care transformation, both for NHS England. At the time of the events to which these proceedings relate, Dr Varnam was practising as a GP at the Robert Darbishire Practice and was also the Director of General Practice Development for NHS England.

3. The allegation that has led to Dr Varnam's hearing can be summarised as a conviction for making indecent images of children. Dr Varnam was convicted on 4 May 2023, at Manchester Magistrates Court, having entered a guilty plea. He was committed to Manchester Crown Court for sentence, and was sentenced on 13 July 2023 to a two year community order, a rehabilitation activity requirement, 150 hours of unpaid work to be completed within 12 months, a requirement to register with the police in accordance with the Sexual Offences Act 2003 and a Sexual Harm Prevention Order was imposed for five years.

4. The initial concerns were raised with the GMC on 29 December 2020 by Greater Manchester Police, following Dr Varnam's arrest.

The Outcome of Applications Made during the Facts Stage

5. The Tribunal granted the GMC's application, made pursuant to Rule 17(2)(c) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), for the

Allegation to be amended as shown in bold below. Ms Goring submitted that the amendment would accurately reflect the details of the conviction, and would cause no injustice to Dr Varnam. Mr Hughes did not oppose the application, and the Tribunal was satisfied that the proposed amendment could be made without injustice.

The Allegation and the Doctor's Response

6. The Allegation made against Dr Varnam is as follows:

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

1. On 4 May 2023 at Manchester ~~Magistrates' Crown~~ Court you were convicted of, between 2 June 2020 and 29 June 2020, making indecent photographs, namely: **Amended under Rule 17(2)(c)**
 - a. 2 Category A images of a child; **Admitted and found proved**
 - b. 13 Category B indecent images of children; **Admitted and found proved**
 - c. 226 Category C indecent images of children, **Admitted and found proved** contrary to sections 1(1)(a) and 6 of the Protection of Children Act 1978.
2. On 13 July 2023 at **Manchester Crown Court** you were sentenced to: **Amended under Rule 17(2)(c)**
 - a. a two year community order; **Admitted and found proved**
 - b. a rehabilitation activity requirement; **Admitted and found proved**
 - c. an unpaid work requirement to complete 150 hours within 12 months; **Admitted and found proved**
 - d. a requirement to register with the police in accordance with the Sexual Offences Act 2003; **Admitted and found proved**
 - e. a Sexual Harm Prevention Order made on conviction for five years. **Admitted and found proved**

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

The Admitted Facts

7. At the outset of these proceedings, through his counsel, Mr Hughes, Dr Varnam made admissions to the whole of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

8. In light of Dr Varnam's response to the Allegation made against him, the Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts found proved, Dr Varnam's fitness to practise is impaired by reason of his conviction.

Evidence

9. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to correspondence between NHS England and the GMC, Dr Varnam's certificate of conviction and the sentencing remarks of Mr Recorder McAdam, (the sentencing judge at Manchester Crown Court). Dr Varnam provided a witness statement, signed and dated 4 December 2023.

Submissions

10. On behalf of the GMC, Ms Goring submitted that Dr Varnam's fitness to practise is impaired because of his conviction.

11. She submitted that the conviction amounts to a significant departure from the standards set out in paragraphs 1, 12 and 65 of Good Medical Practice (GMP) 2013 (updated April 2019) in that Dr Varnam has not acted with integrity and within the law, and has not ensured that his conduct justifies the trust placed by the public in the profession.

12. Ms Goring submitted that the conviction brought the medical profession into disrepute and involved grave matters which seriously undermine public trust in the profession. She said that over 200 indecent images of children were recovered from Dr Varnam's devices. The ages of the children depicted in the images ranged from 6 to 17, with the majority falling between ages 8 to 12. Ms Goring said that two of the images were "Category A", which is the most serious category of indecent image and submitted that this was not an isolated incident as the images had been downloaded over a period of 5 to 6 months in 2020.

13. Ms Goring submitted that Dr Varnam's conviction breached a fundamental tenet of the profession, which required him to act with integrity and that his continued denial of sexual interest in children raised doubts about his insight into his offending. She submitted that the Tribunal could not be satisfied that his actions have been fully remediated, and that there is a risk of repetition.

14. Ms Goring submitted that the Tribunal should make a finding of impairment to ensure that public confidence in the profession is upheld.

15. On behalf of Dr Varnam, Mr Hughes submitted that Dr Varnam accepts the submissions of the GMC, save for the submission that there is a risk of repetition. Mr Hughes emphasised the progress Dr Varnam has made since the offences were committed in 2020, and outlined the steps he has taken to ensure that he will not place himself in that position again.

16. Mr Hughes urged the Tribunal to consider specific documents, including the pre-sentence report from the criminal proceedings, the Judge’s sentencing remarks and Dr Varnam’s witness statement. He submitted that Dr Varnam’s witness statement illustrates the journey he has been on since his arrest and demonstrates his insight and remediation.

17. Mr Hughes highlighted Dr Varnam's voluntary participation in programmes such as XXX, demonstrate his commitment to addressing his unwanted behaviours. Mr Hughes said that Dr Varnam is now able to provide ongoing support for others XXX. Additionally, Dr Varnam has installed Covenant Eyes software on his devices to ensure he does not access pornography. XXX.

18. Mr Hughes submitted that these efforts should be taken into account as mitigating factors, that they suggested a lower risk of repetition and he emphasised the importance of rehabilitation and support in the Tribunal's decision-making process.

The Relevant Legal Principles

19. 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. The Tribunal must have regard to the statutory overarching objective of the General Medical Council.

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

21. Whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report. This guidance said that any of the following factors are likely to be present when a doctor’s fitness to practise is found to be impaired. These are where the Doctor:

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

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

The Tribunal's Determination on Impairment

22. The Tribunal first considered whether the conviction gave rise to any breaches of the duties and standards of behaviour set out in GMP. It was satisfied that the conviction amounted to a serious departure of the standards set out in following paragraphs of GMP:

'1 Patients need good doctors. Good doctors..... are honest and trustworthy, and act with integrity and within the law.

12 You must keep up to date with, and follow, the law, our guidance and other regulations relevant to your work.

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

23. In reaching its conclusion that the conviction amounted to serious departures from the standards expected of a Doctor, the Tribunal had regard to the nature and seriousness of Dr Varnam's conviction. It bore in mind that over 200 indecent images of children had been found on his devices, and that the majority of images depicted children in the age range of 8 to 12 years of age. Two of the images were category A, which is the most serious category of indecent image, involving penetrative sexual activity. 13 images were category B, which involve non penetrative sexual activity, and the remaining images were category C, which are indecent images of children which do not fall into category A or B.

24. The Tribunal took into account the sentencing remarks of the Judge who sentenced Dr Varnam at the Crown Court, dated 13 July 2023. He stated:

"This sort of offending offends the principles of every rightminded thinking individual. The taking of such images/posting of such images, I accept you did not do either of those things; you just looked at them. But it is an evil trade, in some ways worse than drug dealing. It causes untold misery for the victims and it is done simply to line the pockets of such people who trade in such matters, or to trade with other people who have a similarly perverted mindset.

For that reason, the courts take this sort of offending extremely seriously."

25. The Tribunal also considered whether, as a result of his conviction, Dr Varnam has, in the past, acted in any of the ways set out by Dame Janet Smith in the fifth Shipman report, (referred to above).

26. The offences for which Dr Varnam was convicted did not relate in any way to patients/or his clinical practice. The Tribunal was therefore satisfied that the conviction did not place patients at unwarranted risk of harm.
27. However, given the nature and seriousness of the conviction and the sentencing remarks of the Crown Court Judge, the Tribunal concluded that it brought the profession into disrepute. Further, the conviction breached the fundamental tenets of the profession which require Doctors to act with integrity, follow the law, and act in a way which justifies the trust that members of the public place in registered Doctors.
28. The Tribunal next went on to consider whether the conviction is easily remediable, whether it has been remedied, and whether it is highly unlikely to be repeated. In so doing, it had regard to the content of Dr Varnam’s signed witness statement, (dated 4 December 2023) and considered factors such as the triggers for his offending, his level of insight into his behaviour, the steps taken to address the triggers and to remediate the conduct /conviction, and whether he has demonstrated remorse.
29. In relation to the “triggers” for his offending, Dr Varnam explained in his witness statement that prior to his arrest, he was working very long hours in his clinical roles. He often worked up to 75 hours per week, rarely took a break and neglected his self-care. XXX. He says he initially looked at naturist photographs of children, but subsequently downloaded indecent images of children. XXX.
30. Dr Varnam has said that he has no recollection of downloading the images, and denies that he has a sexual interest in children. However, the documentation provided by the Police for these proceedings provided details of the search terms used by Dr Varnam when he committed these offences. The conclusion of the Tribunal was that these search terms strongly suggest that he was searching for images of young females, and was likely to find them given the particular search terms that he used. The Tribunal found it unlikely in these circumstances that he did not have a sexual interest in children.
31. The Tribunal decided that the conviction for making indecent images of children is not a matter which is “easily remediable”. This is because it relates to behaviour which is integrally linked to core attitudes and thinking skills. However, it concluded that it would be possible to remediate and/or “manage” the conduct which led to the conviction with appropriate interventions and behavioural management to address the triggers.
32. The Tribunal accepted Dr Varnam’s assertion that he began to reflect upon, and address his offending behaviour as soon as he was arrested in 2020. It is evident from the information set out in his witness statement that he immediately took a series of steps which would assist him in understanding the triggers for his behaviour, and teach him how to manage these triggers to ensure that his behaviour would not be repeated. These were as follows:

- Dr Varnam completed the XXX.

- Dr Varnam also engaged with XXX.
- Dr Varnam engaged with XXX.
- Dr Varnam voluntarily installed Covenant Eyes software on his devices. This software will ensure that named individuals are alerted immediately if Dr Varnam accesses any pornography on those devices.
- XXX
- XXX

33. Dr Varnam has expressed remorse for his conviction in his witness statement, and having considered the witness statement and all the information set out within the statement, the Tribunal accepted that the remorse was genuine.

34. The Tribunal had not accepted Dr Varnam’s assertion that he had no sexual interest in children. However, whilst his insight is not completely developed, it was apparent from Dr Varnam’s witness statement that he nevertheless has developed meaningful insight into the inappropriateness of his offending behaviour. He clearly understands the magnitude and gravity of the behaviours which led to the conviction, and describes himself as being “sickened” by his behaviour. Through his remediation, he has developed a full understanding of how the offending impacts on the children who are the victims of his offending. He also recognises that his conduct has damaged the reputation of the profession.

35. Overall, the Tribunal concluded that Dr Varnam has done as much as he could do to remediate his offending behaviour and ensure that it will not be repeated. These are all steps he undertook voluntarily several years before his conviction and sentence. He has engaged in a process of remediation which has assisted him in understanding and managing the triggers for his behaviour. His thinking skills have improved and he now has a robust framework of strategies to manage his behaviour and ensure it will not be repeated. He understands the gravity of his offending and its impact on others, and the Tribunal accepted that he is truly sorry for it.

36. The Probation Service assessed Dr Varnam’s risk of re-offending as “medium”. The Tribunal was mindful that the role of the Probation Service is to make a risk assessment for a different purpose, using different criteria and the Tribunal is not bound in any way by that assessment. Given the steps taken by Dr Varnam to remediate his offending behaviour, and given his insight, remorse, and the strategies he now has in place to ensure that he will not repeat his behaviour, the Tribunal concluded that currently, the risk of repetition is low. Three years have elapsed since the offences were committed, and there is no evidence of repetition. The Tribunal was satisfied that looking forward, Dr Varnam is unlikely to breach fundamental tenets of the profession, or bring the profession into disrepute.

37. The Tribunal reminded itself of the overarching objective of the GMC, which is to protect the public. This involves pursuit of the following objectives:

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

38. The Tribunal assessed the risk of repetition as being low. Nevertheless, it is incumbent on the Tribunal to ensure that the overarching objective of the GMC is upheld.

39. Dr Varnam's conviction is for an offence of the utmost seriousness which has far-reaching and damaging consequences for the victims of such offending. Further, individuals who commit such offences encourage the demand for indecent images of children to be available on the internet. Dr Varnam is now a registered sex offender and is in the early stages of meeting the requirements of the court-imposed sentence.

40. Members of the public place their trust in registered Doctors and expect Doctors to maintain the highest standards of behaviour in order to justify that level of trust. Notwithstanding Dr Varnam's remediation, and the low risk of repetition, the Tribunal was in no doubt that members of the public would be appalled to learn that a registered Doctor has a conviction for making indecent images of children. It was satisfied that public confidence in the profession would be seriously undermined if no finding of impairment was made, and proper professional standards would not be maintained. The Tribunal therefore concluded that a finding of impairment was necessary both to maintain public confidence in the medical profession, and to ensure that proper professional standards are maintained.

41. The Tribunal therefore concluded that Dr Varnam's fitness to practise is impaired because of his conviction.

Determination on Sanction - 04/01/2024

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

The Evidence

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

Submissions

44. On behalf of the GMC, Ms Goring invited the Tribunal to erase Dr Varnam's name from the medical register. She referred the Tribunal to the Sanctions Guidance, (SG), and reminded the Tribunal to have regard to the overarching objective and to ensure that public confidence in the profession is maintained. She emphasised the importance of the reputation of the profession.

45. Ms Goring submitted that there were no exceptional circumstances which would justify taking no action, and that there were no workable conditions which would address the behaviour. Further, she said that suspension would not serve the public interest given the seriousness of the behaviour. She submitted that the conviction is fundamentally incompatible with continued registration and that erasure is the only appropriate and proportionate sanction.

46. Ms Goring referred the Tribunal to paragraphs of the SG which specifically relate to the sanction of erasure, and to those which apply where the matters before the Tribunal relate to convictions, sexual misconduct and possession of indecent images of children.

47. Ms Goring submitted that there were a number of aggravating factors. These included the number and type of the images involved and the harm caused to children who appear in those images. She acknowledged that there are mitigating factors, such as Dr Varnam's apology and admissions, but submitted that the remediation undertaken and his remorse do not negate the need for the Tribunal to erase his name from the register to maintain public confidence in the profession.

48. On behalf of Dr Varnam, Mr Hughes told the Tribunal that Dr Varnam does not oppose the submissions of the GMC. He said that membership of the profession has been a privilege for Dr Varnam, and that he has genuine remorse for his actions and the impact of his actions on others. Dr Varnam recognises that children have suffered as a result of his actions and is particularly remorseful for that.

49. Mr Hughes informed the Tribunal that Dr Varnam has no intention of returning to clinical practice. He referred the Tribunal to documentation within the bundle in which Dr Varnam expressed this intention to the GMC.

The Relevant Legal Principles

50. The Tribunal has taken into account the SG and the departures from GMP that it identified at the impairment stage.

51. In making its decision, the Tribunal had regard to the principle of proportionality, and it weighed Dr Varnam's interests with those of the public. Throughout its deliberations the Tribunal has borne in mind that the purpose of sanctions is not to punish a doctor, but to protect the public. It has also taken into account the overarching objective which is to protect the health, safety and wellbeing of the public, maintain public confidence in the profession,

and promote and maintain proper professional standards and conduct for the members of the profession.

52. The Tribunal has also borne in mind that in deciding what sanction, if any, to impose, it should consider all the sanctions available, starting with the least restrictive and then consider each sanction in ascending order.

The Tribunal's Determination on Sanction

53. In reaching its decision, the Tribunal first considered whether there were any aggravating and mitigating factors present in this case.

54. The Tribunal identified a number of aggravating factors which were as follows:

- The police had recovered two images from category A, which is the most serious level of indecent image; there were 13 category B images, and over 220 images from category C.
- The Tribunal also found that the offending, by its nature, constitutes child abuse which causes serious and potentially wide-ranging and long-lasting harm to the children depicted in the images.
- By searching for and downloading indecent images Dr Varnam has created a demand for those images which, in turn, gives rise to further sexual abuse of children.
- Dr Varnam accessed the images over a period of some 5 to 6 months. This suggests that this was not an isolated incident, although the Tribunal acknowledged that there was no evidence of how many times Dr Varnam had accessed the images.
- In addition to Dr Varnam's role as a GP, he held a Senior Leadership position within the wider NHS and was a mentor/trainer to other Doctors.

55. The Tribunal recognised that there was some mitigation. Dr Varnam entered guilty pleas in the criminal proceedings and engaged with the probation service. He has taken meaningful and successful steps to understand his behaviour to ensure that he does not repeat it. He has appropriate insight into his offending, its consequences and the suffering his offending has caused to the children in the images. He is at low risk of repeating his behaviour and has apologised for it.

No action

56. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to conclude by taking no action.

57. The Tribunal considered that there were no exceptional circumstances in this case which could justify it taking no action. It was satisfied that to take no action would be neither appropriate nor proportionate given its earlier findings and would fail to uphold the statutory overarching objective.

Conditions

58. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Varnam's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

59. The Tribunal decided that conditions would not be appropriate. The matters before the Tribunal did not relate to Dr Varnam's clinical practice, and workable conditions could not be formulated to address his offending behaviour. Even if it was possible to formulate conditions to address the behaviour/conviction, conditions would be insufficient to maintain public confidence in the profession, given the serious and sexual nature of the conviction and its far reaching consequences for the children involved.

Suspension

60. The Tribunal then went on to consider whether to impose a period of suspension. It had regard to paragraphs 91 to 97 of the SG, in particular, paragraph 92 which states:

“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).”

61. The Tribunal acknowledged that there were some factors (set out in paragraphs 97 f and g of the SG) which were present and which can, in some circumstances, support a suspension. These were, that there is no evidence of repetition of similar behaviour, and Dr Varnam has insight and does not pose a significant risk of repeating his behaviour.

62. However, the Tribunal was mindful of the paragraphs within the SG which specifically address convictions, sexual misconduct, and sex offenders and child abuse materials. In particular, it had regard to the following paragraphs:

Paragraph 150, which states:

“Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of

trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.”

Paragraph 151, which states:

“Any doctor who has been convicted of, or has received a caution for, a sexual offence listed in Schedule 3 to the Sexual Offences Act 2003 must notify the police (register) under section 80 of the Sexual Offences Act 2003 and may need to undertake a programme of rehabilitation or treatment. Sexual offences include accessing and viewing, or other involvement in, child sex abuse materials, which involves the exploitation or abuse of a child. These offences seriously undermine patients’ and the public’s trust and confidence in the medical profession and breach a number of principles set out in Good medical practice.....”

Paragraph 153, which states:

“While the courts distinguish between degrees of seriousness, any conviction for child sex abuse materials against a registered doctor is a matter of grave concern because it involves such a fundamental breach of the public’s trust in doctors and inevitably brings the profession into disrepute. It is therefore highly likely that, in these cases, the only proportionate sanction will be erasure.....”

63. Having carefully considered the relevant sections of the SG, the Tribunal decided that a suspension would not be a sufficient sanction. The Tribunal had identified some mitigation, but attached very limited weight to the mitigation when it was balanced against the aggravating factors and the high level public interest considerations which arise. Dr Varnam has a conviction for making indecent images and is a registered sex offender currently serving the sentence imposed by the Crown Court. Any conviction for making/viewing indecent images of children is indirectly a form of child abuse. It causes harm to children, and is likely to create a demand for further abuse to children.

64. The Tribunal was satisfied that a conviction of this nature severely erodes the trust which the public place in doctors. It concluded that suspending Dr Varnam would not serve to maintain public confidence in the profession and would fail to uphold the high standards of conduct expected of registered doctors. It concluded that a suspension was not an appropriate and proportionate sanction.

Erasure

65. The Tribunal then considered erasure. It had particular regard to paragraph 108 of the SG which states:

“Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the

profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.”

The Tribunal also bore in mind paragraphs 109a, and 109f of the SG. These state that erasure may be appropriate where, there is/are:

Paragraph 109 a

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

Paragraph 109 f,

“Offences of a sexual nature, including involvement in child sex abuse materials...”

66. The Tribunal had concluded in its decision on impairment, that whilst there were no patient safety issues in this case, Dr Varnam had fallen significantly short of the standards set out in GMP. He had not upheld the law, and had not ensured, by reason of his conviction, that his conduct justified the trust which the public place in doctors.

67. The Tribunal attached significant weight to the aggravating factors outlined above, which far outweigh any mitigation. The serious/sexual nature of the conviction, its repercussions for the victims, and the damage such a conviction causes to the reputation of the profession render it fundamentally incompatible with continued registration.

68. The SG makes clear that erasure can be an appropriate sanction in cases such as this, and the Tribunal had been presented with no information to persuade it otherwise. Its view was that the public could not have any confidence in the profession if a sanction less than erasure was imposed. There were a number of aggravating factors to which the Tribunal attributed significant weight, and Dr Varnam is a registered sex offender currently serving a court imposed sentence. In all the circumstances, erasure is the only sanction which would serve to ensure that public confidence is maintained in the profession, and proper professional standards are maintained. Any sanction less than erasure would not be proportionate and would not be sufficient to uphold the overarching objective.

69. The Tribunal therefore decided to erase Dr Varnam’s name from the medical register. The Tribunal was mindful of the principle of proportionality. It recognised that erasing Dr Varnam’s name from the medical register means that he will no longer be able to practise medicine (should he wish to do so at some point in the future). However, the Tribunal has balanced the aggravating and mitigating factors and reached the conclusion that erasure was an appropriate and proportionate sanction in all the circumstances.

Determination on Immediate Order - 04/01/2024

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

Submissions

71. On behalf of the GMC, Ms Goring submitted that in accordance with paragraph 172 of the SG the GMC seek an immediate order to uphold public confidence in the profession during the appeal period.

"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..."

72. Ms Goring submitted that immediate action must be taken to protect the public confidence in the medical profession.

73. On behalf of Dr Varnam, Mr Hughes submitted that there was no objection to an immediate order being imposed.

The Tribunal's Determination

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

"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."

75. The Tribunal concluded, given its findings at the impairment and sanction stage, that public confidence in the profession would be seriously damaged if an immediate order was not imposed.

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

77. This means that Dr Varnam’s registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction, as already announced, will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

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

79. That concludes this case.