

PUBLIC RECORD

Dates: 17/06/2024 and 25/07/2024

Medical Practitioner's name: Dr Ronald JAMES

GMC reference number: 6121825

Primary medical qualification: MD University of Perpetual Help System
Dalta Jonelta Foundation School of Medicine

Type of case	Outcome on impairment
Review - Misconduct	Impaired

Summary of outcome

Conditions, 18 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mrs Becky Miller
Lay Tribunal Member:	Mrs Amanda Webster
Medical Tribunal Member:	Dr Shehleen Khan

Tribunal Clerk:	Mx Nate Caruso-Kelly
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Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Ms Louise Cowen, Counsel

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 Impairment - 17/06/2024

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr James' fitness to practise is impaired by reason of misconduct.

Background

2. Dr James' case was initially considered by a Medical Practitioners Tribunal ('MPT'), at a hearing which took place in March 2022, ('the 2022 Tribunal').

3. Dr James qualified from the University of Perpetual Help in the Philippines in 2001. Prior to the events which are the subject of the hearing, Dr James was employed to carry out medical examinations of drivers to enable them to submit a completed Medical Report to obtain certain driving licences.

4. Dr James was employed by Doctors on Wheels ('DoW') from early April 2018. DoW was a company which offered drivers medical examinations such that they could apply to the DVLA for various licences or to a local authority for a Hackney Carriage licence. By the time Dr James joined the company, it was offering medical assessments at fixed premises as part of a remote service from a DoW vehicle which covered various parts of the country. The procedure included a nurse that would carry out a medical examination under the supervision of a doctor who would attend the examination remotely. If the driver passed the medical assessment, the nurse was authorised to stamp the form with the Doctor's name, the GMC number and the Doctor's signature using a stamp prepared and provided by DoW.

5. The Allegation that led to Dr James' hearing can be summarised as that he failed, on three occasions, to connect with a nurse virtually to supervise medical examinations and to permit the nurse to authorise the application form with his name, GMC number and his

signature stamp to be given to the driver. Therefore, Dr James permitted the applications to be authorised in his absence. The drivers submitted their assessments as a duly authorised medical examination. It was alleged that Dr James, in allowing this to happen, was acting dishonestly.

6. The initial concerns were raised with the GMC on 6 February 2020 by Mr B, the Director of DoW Limited, after a Trading Standards investigation discovered the misconduct.

The 2022 Tribunal

7. The facts found proved at Dr James' hearing, can be summarised as follows: on three occasions Dr James permitted a Medical Examination D4 Report to be completed, indicating that he carried out the examination. Dr James allowed the documents to be stamped bearing his name and registration number knowing he had not carried out the examination. Dr James had failed to dial into the examination. It was further found that Dr James had been dishonest in his actions as described above.

8. The 2022 Tribunal considered Dr James' dishonesty, which occurred on 3 separate instances, over 2 different dates. In doing so, it agreed that paragraph 1, 15(a), 34, 65, and 71 (a) and (b) of *Good medical practice* (GMP) were engaged.

'1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.'

'15 You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:

a. adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient'

'34 When you are on duty you must be readily accessible to patients and colleagues seeking information, advice or support.'

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

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

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

b You must not deliberately leave out relevant information.'

9. The 2022 Tribunal bore in mind that Dr James was just eight weeks into his role at DoW, at the time of the first instance of dishonesty, and although he had concerns around the practice of virtual examinations, he may not have had the confidence to take any positive action regarding these concerns. Dr James had acknowledged that he needed the work. However, the 2022 Tribunal drew a distinction between committing and omitting and found that Dr James' dishonesty was sustained through his passivity and by omission on his part.

10. The 2022 Tribunal concluded that the failings identified were so significant that they were fundamental breaches of GMP ('Good medical practice') which amounted to misconduct that was serious.

11. In reaching its decision on impairment, the 2022 Tribunal noted Dr James had failed to prevent D4 medical forms being authorised in his absence and in his name. The drivers submitted their assessments as authorised medical examinations. The 2022 Tribunal also found that Dr James had acted dishonestly on those three occasions. These failures had been a breach of his duty of integrity and honesty.

12. The 2022 Tribunal noted that Dr James had accepted the findings of the Tribunal. However, it noted that Dr James had not provided any evidence of remediation through relevant courses or further reflection at the hearing. The 2022 Tribunal also noted that Dr James had not demonstrated any significant steps he had taken to gain insight.

13. The 2022 Tribunal found that Dr James did not directly put the clients of DoW at risk of harm. However, it found that an issue in this case was the potential consequences and risks to the public by driving licences being issued without properly authorised D4 forms.

14. In considering the issue of sanction, the 2022 Tribunal concluded that Dr James had not been the ‘architect of the system’. It also found that he had not attempted to cover up his dishonesty. The 2022 Tribunal considered that Dr James’ dishonesty was not persistent as there were only three instances over two dates.

15. The 2022 Tribunal found that Dr James had demonstrated that he understood the gravity of his actions and was working his way toward remediating them. It considered that Dr James’ misconduct was unacceptable but that the overarching objective would be satisfied by a period of suspension lasting of twelve months.

16. The 2022 Tribunal determined to direct a review of Dr James’ case.

The April 2023 Tribunal

17. The April 2023 Tribunal (the first review) reviewed Dr James’ case and noted Dr James’ late engagement with the regulatory process throughout the course of his suspension.

18. It bore in mind the lack of evidence Dr James had demonstrated to the 2022 Tribunal. It was the duty of Dr James to demonstrate whether his insight had developed sufficiently to mean that his fitness to practise could be said to be not impaired. The Tribunal considered that this position has not changed significantly. Although, it noted, there was some new evidence provided to demonstrate reflection on his part it was described as *“scant, and woefully inadequate, consisting of little more than CPD started in March 2023 which has not been fully completed”*.

19. Further, it noted that in Dr James’ had accepted that his remediation had been *‘last minute and inadequate.’* It also noted that Dr James had failed to provide any testimonials from his mentor or his current employer. He explained, *“he did not think”* of asking for them. It considered that Dr James had acknowledged the 2022 Tribunal findings but that he had asserted that his remediation and insight was progressing, without developing or evidencing any detail of this.

20. The April 2023 Tribunal was satisfied that, in the absence of any evidence of remediation or the development of insight, the overarching objective required a finding of impairment in Dr James’ case.

21. The April 2023 Tribunal concluded that it had not seen any new evidence that discharged the persuasive burden on the doctor. Dr James had accepted *‘there has been a*

lack of effort on his part to prove remediation and insight'. It was concerned that Dr James' engagement has been limited. He did not appear to have fully appreciated that there is a persuasive burden upon him to demonstrate that he is safe to return to unrestricted practice and is no longer impaired.

22. The April 2023 Tribunal determined that, given the information before it, there was insufficient evidence to conclude that Dr James has developed insight into his conduct, to appreciate why there was misconduct and how he could minimise the likelihood of repetition.

23. In the circumstances, the April 2023 Tribunal determined to suspend Dr James registration for a period of eight months to allow Dr James an opportunity to demonstrate that he had reflected on the impact of his actions, understand the gravity of dishonesty for a medical practitioner and gained full insight into his wrongdoing. The April 2023 Tribunal considered that it would also provide him with the necessary time to gather evidence of remediation and insight, and to enable him to demonstrate that his clinical knowledge and skills had been kept up to date during the period of suspension.

24. The April 2023 Tribunal determined to direct a review of Dr James' case and clarified that at the review hearing, the onus would be on Dr James to provide evidence demonstrating how he had developed his insight and remediated his dishonesty and maintained his clinical knowledge and skills.

The December 2023 Tribunal

25. The December 2023 Tribunal (the second review) reviewed Dr James' case. Dr James did not attend the review hearing, nor was he represented.

26. The December 2023 Tribunal noted that it had not received any further evidence of insight or remediation and, as such, nothing had changed. The Tribunal noted that the GMC had set out the recommendations of the first review Tribunal in later correspondence to Dr James on 8 September 2023. It also noted that Dr James had also expressed an intention to provide supplemental material. It was evident that he knew what was expected of him.

27. The December 2023 Tribunal were sympathetic to the difficult personal circumstances that Dr James faced. However, it also noted that Dr James had many months to collate that material and had provided nothing to support the development of further

insight or remediation. There was also no evidence that Dr James had kept his medical knowledge up to date.

28. In the circumstances, the December 2023 Tribunal determined that Dr James had not discharged his burden to show that he was currently fit to practise, and as such remained impaired by reason of misconduct.

29. A further period of suspension was imposed to allow Dr James time to collate and present evidence to a subsequent review hearing. No new material was presented to the December 2023 Tribunal.

30. The December 2023 Tribunal was of the view that Dr James, given his total lack of effort to meet the concerns of past tribunals, had come very close to erasure, but for the reasons set out below, the Tribunal found that it was able to agree with the submission of the GMC, namely, that the doctor deserves one last opportunity to provide the necessary evidence of his reflection, insight, and remediation.

31. In the circumstances, the December 2023 Tribunal determined to extend the current order of suspension for a period of six months which would allow Dr James sufficient time to gain and provide evidence of insight, remediation, and reflection.

32. The December 2023 Tribunal determined to direct a review of Dr James' case. The Tribunal clarified that at the review hearing, the onus would be on Dr James to provide evidence demonstrating how he has developed his insight and remediated his dishonesty and maintained his clinical knowledge and skills. It therefore suggested that it may assist the reviewing Tribunal if Dr James' provides the following (as was suggested by the April 2023 Tribunal):

- a) Evidence that demonstrates the development of his insight and reflection, such evidence might include information as to his continuing engagement with his mentor, including evidence from the mentor himself;
- b) Evidence that Dr James has made efforts throughout the period of his suspension to keep his clinical knowledge and skills up to date;
- c) References/testimonials. These may be from any work environment and could demonstrate his integrity and work ethic; and
- d) Any other information that he considers will assist a review hearing.

Today's Review Hearing

33. This is the third review of Dr James' case.

The Evidence

34. The Tribunal has taken into account all the evidence received, both oral and documentary.

35. Dr James gave oral evidence at the hearing. In his oral evidence, Dr James set out the triggers for his misconduct. This included: his junior position in the company; his inability to speak up and be assertive about his concerns which he explained partially stemmed from him being an international medical graduate in that it was not in his culture to speak up unless he was spoken to directly. Dr James further explained that his fear of losing his job due to speaking up was related to his financial concerns and he felt he had slim chances of finding other employment, however he now understands this was a 'lame excuse' for not speaking up.

36. Dr James further stated that he feels the risk of these factors pressuring him again would be reduced in an NHS setting because in his experience working in the NHS, there is more support and supervision offered which would mitigate his difficulties in speaking up. Dr James stated that he would not feel confident working outside of a training position for several months or years and he would need the increased supervision and support to return to practice. Dr James set out strategies that he has learnt to manage difficult situations and assert himself, and he has gained confidence in doing so through discussion and role play with his mentor, Dr C. Dr James stated that he understands the ever-evolving nature of the NHS and medicine in general and has a network of peers to support him in returning to practise and keeping up to date.

37. In response to Tribunal questions, Dr James stated that he moved to the UK in 2005 and thereafter undertook locum positions, a Foundation Year 2 doctor post, and completed the practical element of the process required to qualify as a GP but was not successful in the theoretical element and as a result did not achieve his Certificate of Completion of Training ('CCT') in General Practice. Dr James stated he then worked for the Department of Work and Pensions ('DWP') completing medical assessments for about 6 years until he began to work for DoW. Dr James stated that while an NHS role would give him the benefit of increased supervision and support, he would be willing to undertake private work if the company seemed reputable. Dr James stated that when working for DoW he failed to complete his due diligence and, in the future, he would ask his support network of professional colleagues for advice before undertaking any private work. Dr James stated that this network is made up of

his pastor, his mentor, healthcare professionals from his church, and other friends, many of whom are in the healthcare profession.

38. In addition, the Tribunal received evidence from the following witness on Dr James' behalf:

- Dr C, GP Partner, via video link.

39. Dr C stated that he met Dr James when he arrived in the UK in 2005 and gave him some ad hoc advice on how to secure a training post and the structure of the profession in the UK, but they did not engage in formal mentoring until last year. Dr C stated that Dr James' work is ongoing, however he is fit to practise without restrictions as long as he is provided with ongoing support and supervision. Dr C stated that he had some concerns about Dr James returning to the private sector as it is profit driven and less regulated than the NHS, however he stated this was not in terms of there being any risk of Dr James repeating his dishonesty, as he suffered great personal shame from the events, and he would not allow himself to be in that position again. Dr C stated that Dr James' biggest challenge in returning to work will be updating his medical skills and knowledge, although he stated his knowledge is not totally out of date and 'not bad' and they have discussed changes in practice. Dr C stated that a locum position may not be suitable as Dr James would have less supervision than in a substantive post, however he believes that Dr James is capable of using the supportive network that has been established around him.

40. The Tribunal received the Record of Determination for the 2022 hearing, the April 2023 Review, the December 2023 Review, emails between Dr James and the GMC dated between January and March 2024, Dr James' reflective piece, PDP, a letter from Dr C dated 17 May 2024, emails between Dr James and Dr D dated April and May 2024, emails between Dr James and Dr E dated March 2024, various CPD certificates and reflections, and two testimonials.

Submissions

41. On behalf of the GMC, Ms Cowen submitted that Dr James' fitness to practise remains impaired. Ms Cowen submitted that in light of the evidence Dr James and Dr C have given today, there are significant and ongoing concerns about Dr James working in certain contexts, namely in a private capacity. Ms Cowen acknowledged that Dr James has been very frank in raising the matter of the level of supervision he feels is necessary, and his mentor has set out concerns he would have about Dr James going back to work without that supervision.

Ms Cowen submitted that there are ongoing concerns about Dr James' capacity to practice safely in all contexts that may be open to him were he permitted to practise in unrestricted fashion, questions having been raised about the level of support he may need to practise.

42. Dr James submitted that he understood that this was his last chance to return to practise and as such he expressed his sincere apologies and admitted that he had made a mistake which brought great shame upon him and the wider medical profession. Dr James further submitted that he understood the impact on public safety his actions had, and that he had created this situation by acting passively and omitting to act.

43. Dr James submitted that he has worked with his mentor to identify a personal tendency he has to not rock the boat, and he understands that he must be more assertive when addressing serious matters. Dr James submitted that the environment he was working in at DoW meant he was not given the support needed to speak up and, in the future, he would seek out NHS roles, most likely training posts, to ensure that he had the level of supervision and accountability required.

44. Dr James further submitted that through discussion with his mentor he has identified his passivity and lack of assertiveness as a key factors in why he did not take concerns further at DoW. He submitted that this may be related to cultural differences between the UK and the Philippines, and he understands now that his feelings of being unable to speak up as a junior member of the team at DoW put him in a position where he compromised his integrity as a doctor. Dr James submitted that he would not put himself in this position again and would seek out roles where he would have supervision and support, as well as relying on a network of colleagues and friends.

45. Dr James accepted that he has work to do as he has not been able to practise medicine since 2019, and he has discussed this with his mentor. He submitted that he has been able to sharpen his skills with a clinical attachment and reestablish a professional network. Dr James submitted that he understood the GMC's concerns about his returning to private practice, however he has learnt a lot from his experience, and he would never repeat the misconduct. He submitted that it would be his preference not to work in private practice in order to ensure he had adequate safeguards in place, however he felt he could rely on his network of support no matter what sector he worked in.

The Relevant Legal Principles

46. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for Dr James to satisfy it that he would be safe to return to unrestricted practise.

47. This Tribunal must determine whether Dr James' fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

48. The Tribunal first considered whether Dr James has remediated and shown insight into the misconduct found proved by the 2022 Tribunal. The Tribunal first considered Dr James' reflective statement prepared for this hearing, in which he stated:

'Having realised the seriousness of the implications of my mistakes, it was imperative that I gain deeper insight about these things and, with the help of my mentor, I was able to go through certain things that helped me identify areas for mitigation with the aim of promoting self-awareness and a conscious effort to intentionally pursue the high standards set by the GMC in keeping with the principles of good medical practise.

I have struggled with these thoughts, but even with much difficulty over a significant period, I can honestly admit of having a great, deep shame for my misconduct and would like to express my sincere and heartfelt apology for my dishonest actions. I understand that my mistakes have put the general public in potential harm and the medical profession into disrepute.

It was truly a mistake to allow another person, even a fellow medical or health professional, to have access to my signature and use it with or without my presence. My discussions with my mentor reinforced the fact that this inappropriate access can easily be misused and abused.

I also understand that my inability to flag concerns and raise them to proper channels has been a major part in the wrongs that I have committed. I take full responsibility for these mistakes and would like to make myself accountable for these wrongdoings.'

49. Dr James confirmed in his oral evidence that he appreciated that what he did was fundamentally the wrong thing to do and he demonstrated insight into the potential impact of this on public safety, members of the profession and the reputation of the profession. He stated *'I give my sincerest apologies for my mistakes. I have been thinking about my mistakes, dishonest behaviour, and shame, and admit the mistakes committed. I am fully aware of the implications and how this impacts on the medical profession, and how it puts public safety in danger'*.

50. The Tribunal found that Dr James has undertaken significant reflection and has come to understand the issues at DoW which led to his dishonest behaviour continuing through his own passivity and inaction. The Tribunal further found that Dr James has identified safeguards for his future practice to ensure that he does not find himself in the same position again, for example, not giving others access to his signature, discussing his work with a network of trusted colleagues, and working in an NHS training post with the increased supervision and support that entails.

51. The Tribunal further found that Dr James understands that what happened at DoW was wrong, and he would not put himself in a position where that might happen again. The Tribunal noted that Dr James was clear that he would seek alternative work, not because he could not stop himself committing similar acts again, but because he does not want to be in that position again.

52. The Tribunal further took into account the opinion of Dr James' mentor, Dr C:

'I confirm that he has demonstrated to me with lots of evidence that he has understood the negative implications of the practice which led to this case, and has shown me how remorseful he is with respect to his poor judgement, dishonest behaviour and lack of insight. In fact, he has gone further in his remorse by apologising to his XXX father whom he had erroneously blamed in a statement he previously made at the start of the MPTS process in which he claimed that he never wanted to be a doctor but that his father forced him to study medicine. Our mentorship relationship opened his eyes to see that all his father was doing for him was to encourage him to be the best he could be in life. He now acknowledges that his error of judgement that led to this case had nothing to do with the fact that he was encouraged by his father to study medicine. I confirm that Ronald is much more determined than ever before to make a successful career in medicine. He is determined to undertake training in a specialty where he intends to excel as a practitioner and become an exceptionally

good and reliable practitioner if he is given the opportunity, bringing into his practice all the lessons learnt from his experiences from this case.'

53. The Tribunal further took into account Dr C's opinion, expressed in his oral evidence, that Dr James would never again act in a dishonest way due to the magnitude of the shame that this brought to him and the damage to his personal dignity and mental health.

54. The Tribunal therefore concluded that Dr James has shown sufficient insight, remorse, and remediation that there is no longer a risk of repetition of the original misconduct.

55. The Tribunal then went on to consider whether Dr James has kept his clinical knowledge and skills up to date so that he is fit to return to unrestricted practise.

56. The Tribunal noted that although Dr James qualified in 2001, he has now been suspended for more than two years and had not worked in the medical profession for some time before that. Dr James himself stated that a lot of things needed to be done because he had not practised since 2019 - the Tribunal was impressed by Dr James' candour regarding this.

57. The Tribunal took into account the evidence of CPD which Dr James has provided. The Tribunal was concerned that the contents of the CPD was not focused on basic clinical skills and knowledge and had a focus on issues such as assertiveness in the workplace, record keeping and mental health, with limited courses on clinical skills such as basic life support. The Tribunal was further concerned that Dr James has been away from clinical practice for some time now, however the majority of the CPD was undertaken in the few weeks before this hearing.

58. The Tribunal considered The Sanctions Guidance (2024) ('SG') and noted paragraph 164 as relevant in its consideration:

'164 In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):

a they fully appreciate the gravity of the offence
b they have not reoffended
c they have maintained their skills and knowledge
d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.'

59. The Tribunal found that Dr James has made significant progress since the last review hearing and although he has shown sufficient insight and remediation in relation to the original misconduct, it was concerned that, given the length of time he has been out of practice, the CPD and reflections on clinical skills and knowledge are limited. The Tribunal found that Dr James' evidence concentrated on the dishonesty aspect of the case and therefore the CPD undertaken in relation to clinical skills and knowledge was not sufficient.

60. The Tribunal found that Dr James has not provided sufficient evidence to reassure it that he has kept up to date with his medical knowledge whilst he has been suspended, and it was concerned that this was at odds with his real commitments to rejoining the medical profession. The Tribunal therefore found that although, as set out above, Dr James has shown that he fully appreciates the gravity of his misconduct, has shown insight and remediation, and has not repeated the misconduct, nor is he likely to, he has not provided evidence that he has maintained his skills and knowledge and patients may be placed at risk by resumption of unrestricted practice.

61. This Tribunal has therefore determined that Dr James' fitness to practise is currently impaired by reason of misconduct.

Determination on Sanction - 25/07/2024

62. Having determined that Dr James' fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to Dr James' registration.

The Evidence

63. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing where relevant to reaching a decision on what action, if any, it should take with regard to Dr James' registration.

Submissions

64. On behalf of the GMC, Ms Cowen submitted that an order of conditions is the appropriate sanction. She submitted that conditions are the necessary, appropriate and proportionate sanction in this case. Ms Cowen submitted that conditions would enable Dr James to return to work with the appropriate support and monitoring in place which would ensure that proper professional standards were upheld.

65. Ms Cowen submitted that this would maintain public confidence in the profession as Dr James would be returning to work after a significant period of suspension. She further submitted that conditions would be in Dr James' interest to ensure he had appropriate support whilst navigating his return to work which carries certain pressures and challenges as identified by Dr James.

66. Dr James accepted the GMC submission that conditions were the appropriate sanction. He stated that he has discussed the matter with his mentor and understood the need for close and regular supervision as he returns to work. He submitted that conditions would be the proportionate sanction as it would allow him to return to work. He submitted that he hoped to eventually return to unrestricted practice.

The Tribunal's Determination

67. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken The Sanctions Guidance (2024) ('SG') into account and has borne in mind the overarching objective.

68. The Tribunal reminded itself that the main reason for imposing any sanction is not to punish or discipline doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr James' interests with the public interest. The Tribunal bore in mind that the interest of the medical profession as a whole was more important than that of an individual doctor.

69. The Tribunal first considered and balanced the aggravating and mitigating factors in this case.

Aggravating Factors

70. The Tribunal found that the aggravating factor was that this is the third review of Dr James' fitness to practise in respect of the misconduct and his registration has now been suspended for more than two years, therefore a significant length of time has passed since he has practised in a clinical setting.

Mitigating Factors

71. The Tribunal found the following mitigating factors, as set out in its determination on impairment, the Tribunal was satisfied that Dr James has shown significant insight into his misconduct and has attempted to remediate it. The Tribunal noted in particular that Dr James has shown an understanding of what led to the misconduct, including the pressure and isolation he felt at work, and the cultural differences of raising concerns in the UK and the Philippines.

72. Dr James has undertaken some limited CPD including some clinical observations in a psychiatry setting and discussing matters with colleagues.

73. Dr James has shown genuine remorse and shame and has provided candid and honest evidence to the Tribunal.

74. The lapse of time since the events is now more than five years and there is no evidence that the misconduct has been repeated.

75. Finally, the Tribunal noted that these events were the first finding of impaired fitness to practise in Dr James' career and Dr James has engaged with the GMC and this Tribunal.

76. The Tribunal considered each sanction in ascending order of severity, starting with the least restrictive.

No action

77. The Tribunal first considered whether to conclude the case by taking no action.

78. The Tribunal determined that, in view of the ongoing concerns about Dr James' clinical abilities due to the length of time he has been unable to practise, it would be neither proportionate nor appropriate to conclude this case by taking no action. The Tribunal determined that there were no exceptional circumstances and therefore there could be no justification to conclude the case by taking no action.

Conditions

79. The Tribunal first considered paragraphs 80 – 82 of the SG which indicate that conditions are appropriate in this case:

'80 In many cases, the purpose of conditions is to help the doctor to deal with their health issues and/or remedy any deficiencies in their practice or knowledge of English, while protecting the public. In such circumstances, conditions might include requirements to work under supervision.

81 Conditions might be most appropriate in cases:

...

b involving issues around the doctor's performance

c where there is evidence of shortcomings in a specific area or areas of the doctor's practice

...

82 Conditions are likely to be workable where:

a the doctor has insight

b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings

c the tribunal is satisfied the doctor will comply with them

d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.

80. The Tribunal was mindful that in its determination on impairment, it identified that Dr James' insight into the original misconduct was significant, and he had provided extensive reflections and evidence of work undertaken to remediate the misconduct. However, the Tribunal further found that Dr James' registration has been suspended for more than two years and he has not worked in clinical practice since 2019. The Tribunal therefore was concerned that Dr James' clinical skills and knowledge are not up to date. The Tribunal found that conditions would therefore be an appropriate sanction to address these concerns.

81. The Tribunal noted that Dr James had identified that he would require support and supervision to return to work, and the Tribunal found that this level of insight provided

reassurance that he would comply with any conditions imposed on his registration. The Tribunal therefore found that conditions would be workable.

82. The Tribunal further found that as Dr James had shown good insight into his misconduct, the remaining concerns about the length of time he has been out of practice could be overcome with conditions intended to address his performance and general clinical practice. The Tribunal therefore found that conditions could be formulated which would be measurable and workable, to allow Dr James to show that he has the skills and knowledge necessary to return to safe, unrestricted practice.

Suspension

83. Before determining to impose conditions on Dr James' registration, the Tribunal considered whether a period of suspension would be the appropriate sanction. The Tribunal found that, in light of Dr James' insight and remediation, a suspension would be a disproportionate sanction and would only prolong the time he has been unable to practice, further eroding his skills and knowledge. The Tribunal was satisfied, as set out above, that the criteria to ensure that conditions are workable, measurable and appropriate are met.

84. The Tribunal therefore concluded that conditions would be the most appropriate, workable, and proportionate sanction in this case.

85. When considering which conditions to impose, the Tribunal carefully considered the level of supervision which it felt was necessary to ensure Dr James' return to practice was safely managed. The Tribunal determined that close supervision or direct supervision were not necessary in this case. The Tribunal found that Dr James has shown a willingness to ask for help and has been open and honest with his regulator and his mentor. It therefore found that supervision, rather than close or direct supervision, would be appropriate and proportionate. The Tribunal noted that the original finding of impaired fitness to practise was not in relation to Dr James' clinical skills or knowledge and there was not a particular concern that needed addressing, rather a reassurance that he was supported in a safe return to work.

86. The Tribunal determined that the imposition of conditions on Dr James' registration for a period of 18 months would be appropriate and proportionate. The Tribunal was mindful that it may take Dr James some time to obtain employment, and therefore a period of 18 months would ensure that he was able to attend a review hearing having been in work for a period which would show his clinical skills and knowledge are satisfactory.

87. The Tribunal therefore determined to impose the following conditions on Dr James' registration:

1. He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:
 - a the details of his current post, including:
 - i his job title
 - ii his job location
 - iii his responsible officer (or their nominated deputy)
 - b the contact details of his employer and any contracting body, including his direct line manager
 - c any organisation where he has practising privileges and/or admitting rights
 - d any training programmes he is in
 - e of the contact details of any locum agency or out of hours service he is registered with.
2. He must personally ensure the GMC is notified:
 - a of any post he accepts, before starting it
 - b that all relevant people have been notified of his conditions, in accordance with condition 8
 - c if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings
 - d if any of his posts, practising privileges or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination
 - e if he applies for a post outside the UK

3. He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.
4.
 - a He must have a workplace reporter appointed by his responsible officer (or their nominated deputy).
 - b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his workplace reporter
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.
5.
 - a He must be supervised in all of his posts by a clinical supervisor, as defined in the *Glossary for undertakings and conditions*. His clinical supervisor must be approved by his responsible officer (or their nominated deputy).
 - b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his clinical supervisor and approved his supervision arrangements
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his clinical supervisor and his supervision arrangements.
6.
 - a He must get the approval of his responsible officer (or their nominated deputy) before working as:
 - i a locum
 - b He must not work until:
 - i his responsible officer (or their nominated deputy) has confirmed approval
 - ii he has personally ensured that the GMC has been notified of the approval of his responsible officer (or their nominated deputy).

7. He must have a mentor who is approved by his responsible officer (or their nominated deputy).
8. He must personally ensure the following persons are notified of the conditions listed at 1 to 7:
 - a his responsible officer (or their nominated deputy)
 - b the responsible officer of the following organisations:
 - i his place(s) of work, and any prospective place of work (at the time of application)
 - ii all his contracting bodies and any prospective contracting body (prior to entering a contract)
 - iii any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)
 - iv any locum agency or out of hours service he is registered with.
 - v If any of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify this person, he must contact the GMC for advice before working for that organisation.
 - c The Director of his foundation school or the Dean of his medical school
 - d his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

88. The Tribunal has determined to direct a review of Dr James' case. A review hearing will convene shortly before the end of the period of conditional registration. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr James to demonstrate how he might be fit to return to unrestricted practise and how he has kept his skills and knowledge up to date. It therefore may assist the reviewing Tribunal if Dr James were to provide: an update report from his clinical supervisor; evidence of relevant CPD; any appraisals he may undergo; a record of clinical work undertaken; evidence from his mentor

and any personal reflections on his progress he wishes to provide. Dr James will also be able to provide any other information that he considers will assist the Tribunal.

89. The Tribunal have directed to impose conditions on Dr James's registration for a period of 18 months. The MPTS will send Dr James a letter informing him of his right of appeal and when the direction and the new sanction will come into effect. The current order of suspension will remain in place during the appeal period.

90. That concludes the case.

ANNEX A – 17/06/2024

Adjournment and extension of current sanction

91. Due to there being insufficient time for the Tribunal to conclude Dr James' case, the Tribunal determined that it was necessary to adjourn the hearing under Rule 29(2) of the Rules.

92. The Tribunal noted that the current suspension of Dr James' registration is due to expire on 23 June 2024. It invited submissions from parties as to whether it is necessary to extend the current order of suspension in accordance with section 35D(12)(c) of the Medical Act 1983, bearing in mind that the earliest date for the reconvened hearing would be 25 July 2024.

93. No submissions were made by either party.

94. The Tribunal determined to extend the current order of conditions for a period of two months, by exercising its powers under Section 35D(5)(a) of the Medical Act 1983.

95. The hearing is adjourned part-heard until 25 July 2024.