

PUBLIC RECORD

Dr Benn has lodged an appeal against decisions of this Tribunal. She remains free to practise unrestricted while the appeal is considered.

Dates: 15/04/2024 - 23/04/2024

Medical Practitioner's name:	Dr Sarah BENN	
GMC reference number:	3334454	
Primary medical qualification:	MB ChB 1990 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, 5 months

Tribunal:

Legally Qualified Chair:	Miss Rachel Birks
Lay Tribunal Member:	Mr Andrew Waite
Medical Tribunal Member:	Dr Julius Parker
Tribunal Clerk:	Miss Emma Saunders

Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Ms Faye Rolfe, 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 Facts and Impairment - 18/04/2024

FACTS

Background

1. Dr Benn qualified in 1990 from Leicester University Medical School. She undertook vocational training in General Practice and passed the MRCGP exam with Distinction. Dr Benn spent the majority of her career (32 years of practice) as a General Practitioner (GP) partner in inner city Birmingham. She was also a GP trainer and undergraduate tutor. In 2017 Dr Benn moved into a part-time salaried role at a different practice, along with taking on roles as a GP Appraiser, a medical member of the First-tier Tribunal (Social Entitlement Chamber), and as a Military Medical Examiner. During the Covid pandemic, Dr Benn worked remotely for NHS 111, for the Worcestershire COVID Management Service, and on site at her Practice. Dr Benn continued to work as a salaried GP at Hollyoaks Medical Centre until 2022. Dr Benn ceased clinical work in April 2022. She relinquished her licence to practise in August 2022. Dr Benn stated that since 2022 she has devoted the majority of her time to environmental activism and voluntary work.

2. The allegations that have led to Dr Benn’s hearing relate to her conduct. It is alleged by the General Medical Council (GMC) that, on 26 April 2022, 4 May 2022 and 14 September 2022, Dr Benn engaged in peaceful protests within a prohibited buffer zone at Kingsbury Oil Terminal (‘the Terminal’) in breach of an injunction (‘the Injunction’) granted on 14 April 2022. The allegations include that Dr Benn’s actions amounted to contempt of court and that on 4 May 2022 she was in breach of her bail conditions following her arrest on 26 April 2022. The allegations also reference that the events on 26 April 2022 and 4 May 2022 resulted in the appropriate punishment being deemed served by the High Court judge by the total of eight days spent on remand in custody. The allegations reference that, in respect of the events on 14 September 2022, they resulted in Dr Benn receiving a sentence of 32 days imprisonment.

3. Dr Benn self-referred to the GMC in respect of these three incidents and resulting court action.

4. By way of further detail, the Injunction was granted by Mr Justice Sweeting on 14 April 2022 against persons unknown who were organising, participating in or encouraging

others to participate in protests against the production and/or use of fossil fuels in the locality of the Terminal. On 26 April 2022 Dr Benn participated in a peaceful protest for around two hours along with 15 other individuals at the Terminal. They gathered outside the main entrance to the Terminal on a grass verge to the private road with various signs and placards. The group were asked to move by the police but refused. A number of people, including Dr Benn, spread out and sat down across the road which obstructed access into and out of the Terminal. Dr Benn was arrested a short time later, appeared before the court on 27 April 2022 and was bailed on condition that she complied with the terms of the Injunction. Dr Benn was ordered to return to court on 4 May 2022.

5. On 4 May 2022 Dr Benn did not answer her bail and instead attended the Terminal to peacefully protest again. She, and around 10 others, stood on the grass verge at the side of the entrance, again with placards and banners. Dr Benn was again arrested and appeared before HHJ Kelly on 11 May 2022 in respect of the two breaches of the Injunction. HHJ Kelly noted that Dr Benn had spent a day in custody following her arrest on 26 April 2022 and a further seven days in custody following her arrest on 4 May 2022. The court recorded that Dr Benn admitted the breaches of the Injunction and that the appropriate punishment would have been fines of £900 and £1,200. HHJ Kelly took into account the time served in custody and therefore made no further order on the breaches.

6. On 14 September 2022 Dr Benn engaged in another peaceful protest at the Terminal. On this occasion she was one of around 50 individuals who gathered to protest. They were positioned on a private access road. Dr Benn and a number of others sat down in the road, which obstructed vehicle access into and out of the Terminal. The group held a number of 'Just Stop Oil' banners and some wore hi-vis jackets marked with the Just Stop Oil logo. A large number of police officers attended the site, and each person was asked to leave. Dr Benn was arrested when she failed to leave, along with 51 others. Dr Benn appeared again before HHJ Kelly on 21 September 2022. It was noted that she admitted breaching the injunction and contempt of court on this third occasion, and she received a sentence of 32 days immediate imprisonment.

Previous matters

7. Dr Benn emailed a self-referral to the GMC on 16 September 2019 in which she outlined that she had been charged with the offence of '*Conspiracy to Cause a Public Nuisance*' in connection with the Heathrow Pause action. On 7 January 2020 Dr Benn confirmed that she had been charged with the offence of "*Remote pilot fly small, unmanned*

aircraft in flight restriction zone without permission". Dr Benn pleaded not guilty to the offence and subsequently was found guilty at Uxbridge Magistrates Court, was given a conditional discharge for a period of 12 months, and was ordered to pay costs of £171. Dr Benn stated that she and others were *"flying the drones within the 5km exclusion zone outside Heathrow but outside the flight paths so there is no danger to aircraft"*.

8. On 29 September 2019 Dr Benn emailed the GMC to report that she had been arrested for causing criminal damage whilst undertaking a non-violent act of civil disobedience with *'Doctors for Extinction Rebellion'*. This offence arose in connection with the doctor gluing herself to a government building. In March 2020 Dr Benn stated that she had been charged with the offence of *'Obstruct/disrupt person engaged in a lawful activity - Criminal Justice + Public Order Act 1994'*. Dr Benn was found guilty and conditionally discharged.

9. On 14 October 2019 Dr Benn emailed the GMC to advise that she had been involved, the previous week, in non-violent acts of civil disobedience with Extinction Rebellion in London and arrested on 7 and 8 October 2019 for offences of wilful obstruction of the highway. Dr Benn subsequently received two further conditional discharges in relation to these offences.

10. During the course of the investigation into the incidents from September-October 2019 which Dr Benn had self-reported, Dr Benn informed the GMC of an arrest on 1 May 2021 for obstruction of the highway during a climate protest and demonstration. This was deemed not to meet the threshold for formal investigation.

11. In response to the GMC investigation into the incidents from September-October 2019, Dr Benn argued that her fitness to practise was not impaired. She stated that she did not pose any clinical risk to patients. Dr Benn stated that *"The world is facing an unprecedented crisis due to the danger of climate and ecological collapse, and I believe that my actions are a justified and proportionate effort to raise an alarm about the severity and urgency of the situation. I believe that if I had the opportunity to explain this to members of the public, then the majority would support and not condemn me"*.

12. Dr Benn also stated:

"If you do decide that my fitness to practice may be impaired, then I will be happy to co-operate with whatever further steps must be taken to resolve the question. If you

decide to issue a warning or advice, then please note that I will not undertake to refrain from future participation in similar acts of nonviolent disruptive civil disobedience in the context of the climate crisis, as long as this is needed. Likewise, I will not likely be willing to undertake remediation.”

13. A GMC Case Examiner made a decision on 15 July 2021 to close the case against Dr Benn with advice. They considered the repeated nature of the actions of civil disobedience but noted that the courts appeared to have treated each act of offending as a discrete matter. It stated: *“In the absence of a criminal conviction finding, this serves to underscore the court’s perception that these matters were at the lower end of the spectrum of seriousness albeit the court outcomes may also reflect the sheer scale of the offending by members of the environmental activist movement and a pragmatic approach to the high volume of offences being processed through the judicial system”*.

14. The GMC Case Examiner advised Dr Benn to reflect on her actions and to remain mindful in future of her professional obligations. They stated that this would ensure Dr Benn’s future conduct complies with paragraph 65 of Good Medical Practice (2013) (‘GMP’): *“You must make sure your conduct justifies your patients’ trust in you and the public’s trust in the profession”*.

15. This previous investigation and outcome was before the Tribunal by way of background only. The Tribunal did not seek to re-open those matters, but it did take into account the advice previously offered and Dr Benn's response to it.

The Outcome of Application made during the Facts Stage

16. On 15 April 2024 Dr Benn provided further evidence in the form of a video statement (with an accompanying transcript) of UN Special Rapporteur Michel Forst. Ms Rolfe, Counsel on behalf of the GMC, stated that the admission of this video and transcript was not opposed. It was admitted into evidence before the Tribunal.

The Allegation and the Doctor’s Response

17. The Allegation made against Dr Benn is as follows:

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

1. On 14 April 2022, an interim injunction ('the Injunction') was granted by Mr Justice Sweeting as set out at Schedule 1.

Admitted and found proved

2. On 26 April 2022 you engaged in a peaceful protest within a prohibited buffer zone at Kingsbury Oil Terminal ('the Terminal') by spreading out and sitting down across the road, obstructing access to, and egress from the Terminal.

Admitted and found proved

3. Your actions as described at paragraph 2 above:

a. were in breach of paragraph 1(a) of the Injunction;

Admitted and found proved

b. amounted to contempt of court.

Admitted and found proved

4. On 26 April 2022 having been arrested you were subsequently released on bail on condition that you complied with the terms of the Injunction.

Admitted and found proved

5. On 4 May 2022 you attended the Terminal and engaged in peaceful protest within a prohibited buffer zone by standing on a grass verge at the side of the entrance to the Terminal holding a placard and/or banner.

Admitted and found proved

6. Your actions as described at paragraph 5 above:

a. were in breach of:

i. paragraph 1(a) of the Injunction;

Admitted and found proved

ii. the bail condition(s) imposed on 27 April 2022;

Admitted and found proved

b. amounted to contempt of court;

Admitted and found proved

c. resulted in HHJ Kelly's judgment of the appropriate punishment being deemed served by the total of 8 days spent on remand in custody.

Admitted and found proved

7. On 14 September 2022 you engaged in a peaceful protest within a prohibited buffer zone at the Terminal by sitting down on the road and blocking vehicular access into and out of the Terminal.

Admitted and found proved

8. Your actions as described at paragraph 7 above:

a. were in breach of paragraphs 1(a) and/or 1(b) of the Injunction;

Admitted and found proved

b. amounted to contempt of court;

Admitted and found proved

c. resulted in you receiving a sentence of 32 days imprisonment.

Admitted and found proved

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

18. At the outset of these proceedings, Dr Benn made admissions to the entirety of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the GMC (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced all of the paragraphs of the Allegation as admitted and found proved.

19. The Tribunal noted that it had been provided with a full copy of the Injunction and this set out the detail of "*paragraphs 1(a) and/or 1(b) of the Injunction*", which is referred to at paragraph 8(a) of the Allegation. Dr Benn stated that she admitted this paragraph of the Allegation in respect of paragraphs 1(a) and 1(b) of the Injunction.

20. In terms of the admissions made, in her witness statement dated 29 January 2024, Dr Benn stated:

"On two occasions in May 2022 and a further occasion in September 2022, I deliberately breached the injunction by standing in protest with a placard on the grass verge (photo submitted...), and sitting down on the terminal entry road thereby obstructing vehicular access. I do not dispute the facts outlined in the evidence bundle as submitted about my actions. The video evidence I have submitted shows very

clearly the nonviolent nature of my actions, and when I am talking to camera, the underpinning motivations ...

My objective was to contribute to a small degree of disruption to the operation of the terminal (limited to the time it would take to be removed by police), and in doing so to highlight the issues I have previously elaborated. As this was part of a coordinated series of such actions nationally, my hope was for dialogue to be opened in the public domain, shifting the Overton window (the range of policies politically acceptable to the mainstream population at any given time), provoking a degree of political crisis and government thence committing to halting new oil licences. Had the government made such an undertaking, I would have happily packed up and gone home.

As a result of my breaking the Kingsbury injunction on three occasions, in 2022, I was found guilty of contempt of court and served a total of 31 days in prison. I do not dispute the facts as presented by the GMC in regard to this...”

IMPAIRMENT

21. 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 Benn’s fitness to practise is impaired by reason of misconduct.

The Evidence

Witness Evidence

22. Dr Benn provided her own witness statements dated 29 January 2024 and 24 March 2024. She also gave oral evidence at the hearing on 15 April 2024. Dr Benn read out the detailed witness statement of 29 January 2024 which she expanded on in places and answered questions posed to her.

Documentary Evidence

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

- GMC Case Examiner’s decision on previous matter dated 15 July 2021;

- Interim Injunction Order dated 6 May 2022 in relation to an application brought by North Warwickshire Borough Council issued by Mr Justice Sweeting;
- Section 222 - Notice of Power of Arrest dated 6 May 2022;
- Civil Order of HHJ Kelly adjourning contempt proceedings against Dr Benn dated 10 May 2022;
- Civil Order of HHJ Kelly in respect of contempt proceedings against Dr Benn dated 11 May 2022;
- Civil Judgement of HHJ Kelly in the matter of *North Warwickshire Borough Council v Sarah Benn* dated 11 May 2022;
- Statement of Police Constable A dated 14 September 2022 regarding the arrest of Dr Benn;
- Civil Judgement of HHJ Kelly in the matter of *North Warwickshire Borough Council v (12) Sarah Benn (and others)* dated 21 September 2022;
- Correspondence from Hollyoaks Medical Centre dated 6 October 2022;
- Dr Benn’s Rule 7 response dated 26 June 2023;
- Testimonial on behalf of Dr Benn from Dr B dated 21 January 2024;
- Testimonial on behalf of Dr Benn from Dr C dated 26 January 2024;
- Email from two members of the public commenting on the GMC action against Dr Benn;
- Video produced by Just Stop Oil entitled “*The Siege of Kingsbury*” dated 26 September 2022; and
- Video statement of UN Special Rapporteur Michel Forst dated 12 April 2024, along with transcript of that video statement.

Submissions

Submissions on behalf of the GMC

24. Ms Rolfe, Counsel on behalf of the GMC, stated that the Tribunal should follow a two-stage process, firstly whether Dr Benn’s conduct has amounted to misconduct and then, if so, whether her fitness to practise is impaired as a result. Ms Rolfe stated that the Allegation involved Dr Benn engaging in peaceful protests that were in breach of an injunction. Those actions amounted to contempt of court and the third breach resulted in Dr Benn receiving a sentence of 32 days imprisonment. Ms Rolfe stated that it was for those reasons that these proceedings had been brought and why the GMC say that it would be appropriate for the Tribunal to find that Dr Benn’s actions amount to misconduct. Ms Rolfe specified that these proceedings were not brought as a direct reaction to Dr Benn’s participation in protests, but

the fact that Dr Benn's actions resulted in a breach of an injunction, contempt of court and imprisonment. Ms Rolfe stated that the proceedings were brought as a direct result of another court's findings.

25. Ms Rolfe referred to various case law in respect of misconduct and impairment, most of which is summarised below in 'The Relevant Legal Principles' section. Ms Rolfe stated that misconduct was a matter for the Tribunal's professional judgement.

26. Ms Rolfe stated that the GMC would say in this particular case that Dr Benn's conduct had been such as to bring the profession in disrepute. She stated that this was said because Dr Benn's conduct had been such as to undermine the rule of law, or the administration of justice, by failing to comply with the Injunction on multiple occasions.

27. Ms Rolfe submitted that doctors, as much and perhaps more than any other citizen, submitted themselves to the rule of law and, by virtue of being a regulated professional, should uphold an even higher standard.

28. In terms of the seriousness of the misconduct, Ms Rolfe stated that the GMC would point to the fact that there had been repeated breaches of the injunction. She also stated that the sanction of imprisonment that was deemed appropriate was immediate imprisonment despite the case law that the sentencing judge was referred to about the appropriateness of suspending sentences when they arose from protests. Ms Rolfe submitted that this was not a one-off action by Dr Benn and as such was not one that the High Court deemed could be dealt with by a non-custodial sentence. Ms Rolfe submitted that the Tribunal should reflect the seriousness that the High Court found and make a finding of misconduct. She noted that it was in no way connected to Dr Benn's clinical practice.

29. In respect of impairment, Ms Rolfe referred to the approach set out by Dame Janet Smith in The Fifth Shipman Report, as approved by the High Court in *CHRE v NMC & Paula Grant* [2011] EWHC 297 (Admin):

"Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

- b. *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. *has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

30. Ms Rolfe submitted that (a) and (d) were not engaged in this case but that (b) and (c) were. She referred to paragraph 1 of GMP:

"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."

31. Ms Rolfe also made reference to paragraph 65 of GMP, which is quoted in the background section above. Ms Rolfe submitted that there were two ways in which Dr Benn's fitness to practise is impaired, in that she has not acted within the law and her conduct fails to justify patients' trust in the profession.

32. Ms Rolfe submitted that it was not the fact of taking part in the protests that the GMC had issue with but that there was a risk that patients seeing a doctor flouting, and openly stating her intention to continue to flout, the rule of law risked the public's trust in and respect for doctors.

33. Ms Rolfe stated that Dr Benn relied on the concept that a member of the public, with knowledge of her motivations, would have their trust in the profession diminished if she did not engage in this form of peaceful protest to try and bring about government action on climate change. Ms Rolfe stated that the GMC's position is that Dr Benn is ascribing a degree of knowledge to the public as a whole that is simply unachievable. Ms Rolfe submitted that the public would simply say that the doctor was breaking the law, acting in contravention of her professional code, and that doing so would diminish the public's trust in this regulatory process and in doctors as professionals who are held to a higher standard of conduct and behaviour.

34. Ms Rolfe stated that the test set out in *Grant* directly asked the Tribunal to consider both past and future conduct. She stated that, in this case, there were multiple breaches of

the Injunction. Ms Rolfe stated that Dr Benn had set out the limits of what she would do in the future in that she would remove herself from protests engaging in any form of violence. Ms Rolfe stated that Dr Benn has said that she will do everything she can to further the aims she has referred to and expressly stated that she will not take part in remediation. Ms Rolfe submitted that, when considering whether Dr Benn is liable in the future to bring the medical profession into disrepute, the Tribunal has heard expressly from Dr Benn that her intention is to continue her activities.

35. Ms Rolfe submitted that it was clear that the purpose of this type of hearing was not simply to protect the public from doctors whose clinical practice was of a low standard, but also to uphold proper professional standards and public confidence in the profession. She submitted that public confidence would be undermined if a finding of impairment was not made in the particular circumstances of this case.

36. Ms Rolfe stated that proceedings of this type were not intended to punish the doctor but to protect the public, or, in this case, to maintain high standards and the good reputation of an honourable profession. Ms Rolfe submitted that, whilst Dr Benn has stated that there may well be some members of the public who now and in the future will agree with what she had done, there will also be groups of society that do not agree, do not understand, and can never understand.

Submissions from Dr Benn

37. Dr Benn stated that, as a doctor, she had a moral duty to take action to protect life and health in the context of a severe threat to both due to climate breakdown. She stated that she had demonstrated in her evidence the consensus of extreme scientific alarm about the climate crisis. She stated that it was not something that she had dreamt up, it was not just a passionate belief, but rather it was fact.

38. Dr Benn stated that the climate emergency was a health emergency and that it was not something in the future, but it is happening now. She submitted that, if knowing all of this she chose to stay quiet, she would be failing in her obligations and breaching the requirements of GMP.

39. Dr Benn stated that the GMP guidance included reference to making patients' health her first concern. She stated that there is a tendency to consider the reputation of the profession as at this moment in time but that things do change with time. Dr Benn stated

that what used to be completely unacceptable for one's reputation, for example homosexuality, is now mostly accepted by society. She made reference to the GMC's recent apology for how it treated homosexuals in the past. Dr Benn stated that what used to be acceptable is now unacceptable, for example, the owning of slaves and marital rape.

40. Dr Benn stated that, as the GMC said in its recent apology to homosexual doctors who were struck off the medical register, *"Times have changed and so have we"*. She submitted that what was changing ever faster was our planetary life support system, which was failing. Dr Benn submitted that our climate and ecology were at an ever more critical point of peril. She predicted that, in years to come when events unfold and systems unravel, the reputation of those who tried their best to protect patients, the public, and future generations, will be enhanced and not reduced. Dr Benn reminded the Tribunal of what had happened to the reputation of the Post Office (in relation to the wrongful prosecution of sub-postmasters/mistresses) and the personal reputations of those involved. She stated that those who kept quiet at the time to protect those reputations had allowed terrible miscarriages of justice to happen that had ruined lives.

41. Dr Benn referred to the requirement that a Tribunal must assess if a doctor poses any current and/or ongoing risk to one or more parts of the overarching objective of public protection. Dr Benn referred to the foreword in GMP in that:

"Patients must be able to trust doctors with their lives and health. To justify that trust you must show respect for human life and make sure your practice meets the standards expected of you.

... Make the care of your patient your first concern.

... Take prompt action if you think that patient safety, dignity or comfort is being compromised."

42. Dr Benn stated that she had acted in an unconventional way but in a way that was chosen because other ways had, so far, been ineffective. She stated that she had acted because of the safety of patients. Dr Benn submitted that the safety of the whole of humanity was seriously and increasingly compromised by the unfolding climate emergency and the fact that urgent action was not being taken to protect patients and protect humanity.

43. Dr Benn submitted that she was 'blowing my whistle as loud as I can'. She stated that she did not consider this to be an abuse of the public's trust in the profession, whereas 'not

blowing that whistle’ was an abuse of trust. Dr Benn stated that, just because the whistle was not yet being fully heard, did not mean that it should stop.

44. Dr Benn stated that there was an abundance of evidence in her witness statement that demonstrated that she was not alone in her convictions about the severity of the climate crisis, the effect on health, and the need for urgent action, which was just not happening. She submitted that her position was not an outlying one and that other people and bodies in the public eye were conveying the same message.

45. Dr Benn referred to UN General Secretary, António Guterres, who talks about a code red for humanity and about the 'dangerous radicals' being those that continue to burn fossil fuels. She also referred to Professor Sir David King, founder and chair of the Centre for Climate Repair at Cambridge University, who said in 2021 that we are in *“a very very desperate situation”*. Dr Benn stated that Professor Sir David King talked about the near inevitability of a 1.5 degree climate overshoot and warned of entering *“a realm of unacceptable risk and uncertainty, exposing humanity to potentially irreversible harms”*.

46. Dr Benn referred to the British Medical Journal and stated that they were calling on governments and leaders to act urgently, especially those in wealthier countries such as the UK, and recognising the ongoing contribution to the climate crisis of burning fossil fuels. Dr Benn also referred to the 2022 report of the annual Lancet Countdown on Climate and Climate Change. She submitted that the report described a threat to life and health from extreme heat, food insecurity and the dangers of fossil fuel dependence. Dr Benn referred to the editor of The Lancet and stated that he said that *“all health professionals have a duty and obligation to engage in all kinds of non-violent social protest to address the climate emergency’ because it represents ‘the most existential crisis facing our communities in the world today’.*” Dr Benn also referred to UN Special Rapporteur Michel Forst. She stated that he said that *“we are in the midst of a triple planetary crisis of climate change, biodiversity loss and pollution”*.

47. Dr Benn submitted that there should be a level of public trust in these people and bodies whose positions align with her own. She stated that she knows that the GMC does not want to argue with her about the existence of climate change or its effects but that we also needed to look at evidence that non-violent direct action was an appropriate strategy in terms of her shouting an alarm. Dr Benn submitted that there was evidence that non-violent direct action helped to change policy and the law, and that this had been proven by history, for example, the suffragette movement.

48. Dr Benn submitted that there was no evidence that she had caused a loss of public trust in her as a doctor or in doctors generally. She submitted that it was supposition on the part of the GMC based on what was traditionally viewed as acceptable behaviour.

49. Dr Benn stated that the media often publicise stories that cause public concern but questioned whether we should believe everything we read in the media. She referred to the concept of bias and about the misinformation circulated around on social media, for example anti-vaccination stories. Dr Benn stated that many people were aware of this and there was a duty to increase this awareness. She submitted that, when patients were understandably concerned about issues such as vaccine safety, the role of their doctor was to explore their concerns and guide them through the unfamiliar terrain of scientific facts versus opinion until they come to a point of understanding where they can make a decision.

50. Dr Benn submitted that most people were more sophisticated than just jumping to a conclusion, such as all doctors being untrustworthy because a doctor went to prison for protesting about climate change. She stated that there was an opportunity to build public trust by explaining the background to this unusual occurrence; in that a law-abiding professional went to prison, not for personal gain, but because of the dangers of climate change to public health and because it is an emergency where the government is not acting to protect us. Dr Benn submitted that this Tribunal could choose to help explain all of this by choosing not to find her guilty of impaired fitness to practise due to misconduct and then, crucially, explain why in its public determination.

51. Returning to evidence, Dr Benn submitted that, whilst the GMC had produced no evidence to suggest loss of trust caused by her, there was evidence to the contrary in the papers before the Tribunal. She referred to an email from a member of the public questioning the GMC's actions against her. Dr Benn also stated that she knew of, but did not seek to submit into evidence, a petition currently on Change.org with over 2000 signatures that expressed support for her and others, and which urged both the Tribunal and the GMC to publicly support their right to engage on the issues. Dr Benn stated that she knew of no circulating petition demanding that she be struck off the medical register and the GMC had not submitted any such evidence to support their assertions about public trust.

52. Dr Benn stated, in terms of her own experience, she knew of no patient who had ever complained about her or reported a concern about her professionalism due to her climate activism. Dr Benn stated that she had had a great many conversations with others about

climate and health and why she has taken the actions she has. She stated that people had acted with surprise when finding out she was a doctor, in that ‘doctors do not do that sort of thing’, but that they expressed interest rather than condemnation and a tendency to take what she has been saying more seriously because she is a doctor.

53. Dr Benn reminded the Tribunal that it was Dr Benn, personally, who was on trial here and not a movement. She accepted that she could not know what people really think but that she had never had a direct interaction with a member of the public that was anything approaching a response such as ‘you are a disgrace to the profession’. Dr Benn stated that doctors often have to communicate things that a recipient does not like and is not grateful for but that they use their communication skills and integrity to reach a position of shared understanding. She submitted that the public should be credited with some common sense and a desire to find out the truth. Further, Dr Benn submitted that the vast majority of society, bearing in mind that 80% are significantly concerned about the climate emergency, do understand and more would understand that the effects of climate change cannot be denied.

54. Dr Benn stated that she neither admitted nor denied whether her actions amount to misconduct and invited the Tribunal to come to its own judgement. She submitted that her fitness to practise is not impaired by reason of misconduct. She stated that she simply did not agree that what she has done had or could have sufficiently undermined trust such as to make her fitness to practise impaired. Dr Benn stated that she recognised that the decisions that the Tribunal needed to make might not be easy or straightforward and that the implications of what was decided went well beyond the hearing room. She asked the Tribunal to exercise its judgement and make decisions about what seemed right, not necessarily what was easy or convenient. Dr Benn said she had been a good doctor to her patients and was still trying to do her best for others.

The Relevant Legal Principles

55. The Tribunal reminded itself of the overarching objective to protect the public, which includes pursuit of the following objectives to:

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

56. 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.

57. The Legally Qualified Chair (LQC) gave legal advice to the Tribunal.

58. In terms of misconduct, the Tribunal needs to consider whether there has been a departure from the expected standards of conduct and behaviour. The LQC stated that the Tribunal’s attention had been drawn to paragraphs 1 and 65 from GMP, as quoted above, which the GMC says is the expected standards from which there has been a departure. The LQC stated that, if the Tribunal found there had been a departure from expected standards of conduct and behaviour, it would need to consider whether that departure was serious in order to justify a finding of misconduct.

59. The LQC referred to the case of *Doughty v General Dental Council* [1988] AC 164, where misconduct was stated to be conduct that had: “*fallen short, by omission or commission, of the standards of conduct expected among dentists, and that such falling short as is established should be serious*”. She also referred to *Roylance v GMC (No 2)* [2000] 1 AC 311, in which misconduct was described as: “*a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances*”.

60. The LQC stated that if the Tribunal finds that there has been misconduct it should then decide whether Dr Benn’s fitness to practise is impaired by reason of that misconduct. She stated that, as it was a separate stage, it is not intended that every case where there is a finding of misconduct, leads to a finding of impairment of fitness to practise.

61. In relation to impairment, the LQC reminded the Tribunal that it is considering current impairment.

62. The LQC referred the Tribunal to the helpful approach to the determination of impairment in *Grant*, as quoted above. She stated that it was important to have regard to this approach as it involved consideration of both the past and the future.

63. The LQC also referred to the case of *Cohen v GMC* [2008] EWHC 581 (Admin). The Tribunal must determine whether Dr Benn’s fitness to practise is impaired today, taking into

account Dr Benn’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.

The Tribunal’s Determination on Impairment

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

Misconduct

65. The Tribunal first considered whether Dr Benn’s actions amount to misconduct.

66. The Tribunal had regard to the Allegation that had been admitted and found proved. It noted that Dr Benn had breached the Injunction on three occasions and that the final instance had resulted in a sentence of imprisonment for 32 days.

67. The Tribunal noted that no issues in respect of Dr Benn’s clinical work have been raised and it had been provided with correspondence dated 6 October 2022 from Dr D at the Hollyoaks Medical Centre who stated that:

“we had no issues with her as a doctor from patients, staff or any other health care professional who had dealings with her. In fact she... sent us the emails she had been submitting to the GMC... In all honesty, Dr Benn was well liked by the staff and her colleagues and above all praised by the patients who dealt with her on a weekly basis”.

68. The Tribunal also took account of the definition of misconduct as set out in *Doughty* and *Roylance* above and the relevant legal principles.

69. The Tribunal considered what Dr Benn’s position was. The Tribunal gave careful consideration to her witness statement dated 29 January 2024, the admissions she had made at this hearing, and her oral evidence. Within her statement, Dr Benn made it clear that she

did not dispute the facts. She stated that she had always been non-violent, and her actions had always been carefully considered as being the least disruptive option likely to make an impact, and being proportional to the urgency of the situation. Dr Benn stated that:

“The purpose on every occasion was to cause disruption sufficient to place pressure on our government and institutions to take meaningful action to address the climate crisis. The design always avoided risk of harm to any person impacted, although people were subjected to inconvenience, which I did not enjoy. I intended to further the three demands of Extinction Rebellion - that the government should firstly tell the truth about the dire nature and urgency of the climate emergency, secondly take action to achieve net zero emissions by 2025, and thirdly set up citizens assemblies to democratically address the best way to do this.”

70. Dr Benn stated that:

“I find no convenient, quick or comfortable way to do what is needed now to ensure that humanity is protected from the avoidable harms of global heating. Many people over many years have tried to drive change through entirely peaceful, legal and democratic means but without meaningful progress. I have only broken the law through desperation.”

71. Dr Benn also stated that *“the climate emergency is a health emergency and doctors have a duty to respond”*. She stated that her actions were more visible and potentially upsetting to the public than if she had limited them to being non-disruptive and entirely legal. Dr Benn stated that she did not wish to flout or be above the rules and conventions applied to her fellow citizens. She continued that *“It is that desperate danger and urgency require something a little more eye-catching than a leaflet about recycling and low energy light bulbs”*. Dr Benn stated that she wished the climate emergency was instead a climate problem that evolved slowly and predictably such that there was time to intervene more moderately but instead it was *“now an emergency for us, a catastrophe for many in other parts of the world, and an existential crisis for our children”*.

72. Dr Benn also referred to her journey into environmental activism. She stated that she had made significant changes over a period of years to minimise her individual footprint and offset what remained. She stated that, in terms of trying to change things beyond herself, she signs petitions and writes to her MP. Dr Benn stated that she supports campaigning organisations such as Greenpeace and was an active member of her local branch of the

Green Party. She has volunteered for Incredible Surplus (a local food waste project) and The Vegan Society, amongst other efforts.

73. The Tribunal acknowledged Dr Benn’s sincere beliefs and the passion with which she speaks about climate change, and the risks associated with this. It was assisted by her clear and considered explanations. The Tribunal was clear that her views were unrelated to any personal benefit and were genuinely and sincerely held beliefs. The Tribunal respects Dr Benn’s views, her right to hold them, and her right to express them.

74. The Tribunal noted the GMC’s note from its news archive entitled ‘*How our guidance applies to doctors taking part in protests*’ in which it states:

“Like all citizens, doctors are entitled to their own personal political opinions, and there is nothing in the standards we set that prevents them from exercising their rights to lobby government, or campaign on issues.

If we receive a complaint about the actions of a doctor involved in a protest, or a self-referral, we have a legal duty to consider the issues raised. However, as with all complaints, we would make our decision based on the specific facts of the case.

Our focus would be on whether a doctor’s actions may have fallen seriously or persistently below the standards we set, or put patients or the public confidence in the profession at risk. Doctors must always be prepared to justify their decisions and actions.”

75. The Tribunal noted that Dr Benn accepts that doctors should be held to higher standards of behaviour than people in other jobs. These standards are clearly set out within GMP, a document drafted after lengthy consultation with all relevant stakeholders. The Tribunal was mindful that doctors are expected to uphold the law and made reference to paragraph 1 of GMP, within which it noted is an unambiguous and unconditional requirement to act within the law:

“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.” [Tribunal emphasis added]

76. The obligations of a doctor are set out by the GMC within GMP. It is not for this Tribunal to seek to reframe them or to caveat the requirement to act within the law by deciding on circumstances where a doctor is permitted to deliberately act outside the law. The Tribunal was not persuaded by Dr Benn’s submissions that other content of GMP overrode her requirement to act within the law.

77. The Tribunal was of the view that upholding the rule of law within society is essential to maintain the fabric of society, which is for the benefit of all, and that doctors have a role to play within that process. The public must be able to trust that doctors will always act within the law.

78. The Tribunal considered that the actions of Dr Benn and her fellow protestors had impacted on delivery of vital public services particularly on 14 September 2022. It had particular regard to the sentencing remarks of HHJ Kelly as to the impact of the protest and breach of the Injunction in September 2022 that Dr Benn took part in. HHJ Kelly stated:

“The harm also extends to the consequences of the closure of part of the public highway whilst the protests and arrests were ongoing. That will have impacted on ordinary members of the public, including in particular those living in the vicinity of the terminal, who were trying to go about their daily lives.

Your actions also caused very significant harm to the police resources in Warwickshire and beyond at a time when resources were already very stretched as a result of the unprecedented impact of the late Queen’s death and the consequent period of national mourning necessitating the redeployment of Warwickshire Police officers to London. The scale of your protest meant that multiple officers from across Warwickshire had to be diverted away from their normal policing duties to attend, including firearms, traffic and dog unit specialist officers. They attended not because there was any suggestion your protest was other than peaceful but due to the sheer number of protestors that needed to be arrested and processed. The diversion of police resources clearly created a risk of very significant harm to other parts of Warwickshire that were left under resourced. Warwickshire Police had to call for mutual aid from West Midlands Police and West Mercia Police, further diverting police resources from those areas. There is also evidence before the court that officers had to work long past their shifts ended to process those arrested. Inevitably that will have impacted on their welfare and resulted in the police force incurring overtime costs.”

79. Dr Benn had stated that her objective was to contribute to a small degree of disruption to the operation of the Terminal *“limited to the time it would take to be removed by police”*. The Tribunal did not accept that there was a small degree of disruption to the wider public, noting HHJ Kelly's sentencing remarks. The Tribunal was also able to see for itself, via the video submitted by Dr Benn that was produced by Just Stop Oil entitled *“The Siege of Kingsbury”*, the level of police resourcing that was required.

80. The Tribunal was clear that Dr Benn's actions were deliberate, that she knew what she was doing, and that she repeated her actions three times, including on one occasion when she was due at court. This was described by HHJ Kelly as *“a deliberate flouting of both the injunction and of the order of the court to attend the hearing”* and that it *“undoubtedly aggravates that matter”*. The third breach of the injunction was at a time when there was a serious police resourcing issue as a result of the death of Queen Elizabeth II and preparations for her funeral. Dr Benn's actions in breaching the injunction also led to a custodial sentence on that third occasion. The impact beyond the operation of the Terminal itself makes this a more serious matter. The ‘repeated flouting’ of the Injunction, and the custodial sentence it attracted, take these matters to a higher level of seriousness than those considered by Case Examiners on 15 July 2021 which resulted in advice being given.

81. The Tribunal has concluded that Dr Benn's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct which was serious. It was of the view that the majority of members of the public and profession would not condone breaking the law in the manner that Dr Benn repeatedly did, and with the consequent impact on the operations of the police, courts, and the administration of justice.

Impairment by reason of misconduct

82. The Tribunal, having found that the facts found proved amounted to misconduct, went on to consider whether Dr Benn's fitness to practise is currently impaired by reason of her misconduct.

83. The Tribunal had regard to its comments and conclusions in respect of the finding of misconduct. It also noted the earlier GMC investigation, as detailed above, that was closed with advice. The Tribunal noted that Dr Benn was clear that, in her view, she was entirely justified in what she did and had no intention of stopping or changing her behaviour. Dr Benn had said at the time that:

“...If you decide to issue a warning or advice, then please note that I will not undertake to refrain from future participation in similar acts of non-violent disruptive civil disobedience in the context of the climate crisis, as long as this is needed. Likewise, I will not likely be willing to undertake remediation.”

84. The Tribunal noted that the GMC had given advice that Dr Benn be mindful of her professional obligations in future and to ensure her future conduct complied with paragraph 65 of GMP, which has been quoted above.

85. In terms of Dr Benn’s position as it now stands, within her witness statement dated 29 January 2024 she stated:

“I reflected, and continue to reflect on my actions and believe that they have always justified the trust of patients in me, and the public’s trust in the profession. A doctor’s prime responsibility is to protect life and health, and also to speak out when these are endangered. My actions have been taken with a view to amplifying my words to a wider audience, whilst enacting these very responsibilities. I would therefore predict that my actions would not erode trust in myself or the profession, and have come across no evidence to suggest that they would.”

86. The Tribunal had regard to Dr Benn’s actions in 2022 and found that her justification and explanation for her behaviour in 2022 was unchanged.

87. The Tribunal was clear that a fundamental tenet of the medical profession was following the standards within GMP which involve a specific requirement to act within the law.

88. The Tribunal considered whether the matters are remediable, have been remedied and any likelihood of repetition. The Tribunal noted that, in principle, matters were easily remediable in that Dr Benn could decide for herself not to break the law again, and doing this would not preclude her continued involvement in environmental activism.

89. In terms of whether matters had been remedied, Dr Benn has stated *“I will not likely be willing to undertake remediation”*. The Tribunal found that Dr Benn has limited insight into the impact of her actions beyond the operations of the Terminal. The Tribunal considered that, despite Dr Benn’s reflection on the advice she was given by the GMC in 2021, she has failed to recognise the importance of following the requirements of GMP in relation to her

responsibilities as a registered medical practitioner. It is clear to the Tribunal that she continues to be prepared to act despite knowledge of the likely consequences of not following previous GMC advice and the provisions of GMP. Her actions have not been remedied.

90. In terms of the risk of repetition, the Tribunal took account of Dr Benn's clear position as to her current thinking including that she has openly said that she would not refrain from taking similar actions again, caveated by not participating in or condoning violent protests. Whilst there has been no information as to any repetition in the last two years, the Tribunal determined that there was a strong likelihood of repetition in all of the circumstances.

91. The Tribunal had regard to what a well-informed member of the public or profession would think as to Dr Benn's actions. In assessing that opinion, it reminded itself that a well-informed individual would have access to the level of detail within this determination, including Dr Benn's opinions and justifications, but also the specific facts of the case. The Tribunal accepted that there was a broad spectrum of views amongst the general public about climate change, and the pace of action which would be needed to be taken to address climate issues. The Tribunal considered that amongst the public there would be considerable sympathy for Dr Benn's concerns about the environment. The Tribunal reiterates that it respects Dr Benn's views, her right to hold them, and her right to express them. However, the Tribunal was of the view that the overwhelming majority of the public would not condone breaking the law in the repeated way in which Dr Benn did, especially given the impact, on the final occasion, to the wider public resources involved.

92. The Tribunal therefore concluded that the behaviour that Dr Benn had exhibited in not complying with the law on several occasions, disrupting public services and acting in a way that has led to a custodial sentence, would bring the profession into disrepute.

93. The Tribunal referred to the approach to the determination of impairment in *Grant*. It determined that its findings of fact in respect of Dr Benn's misconduct showed that her fitness to practise is impaired in the sense that she:

- (a) ...
- (b) has in the past brought and is liable in the future to bring the medical profession into disrepute, and
- (c) has in the past breached and is liable in the future to breach one of the fundamental tenets of the medical profession

(d)...

94. The Tribunal has therefore determined that Dr Benn’s fitness to practise is impaired by reason of misconduct. It concluded that, given the repeated breaches of the law in contravention of GMP, the Tribunal’s findings as to why this amounts to misconduct, and the high likelihood of recurrence, public confidence in the profession and its system of regulation would be undermined if a finding of impairment were not made. The Tribunal concluded that such a finding was required to protect the wider public interest in terms of acting in a way that: promotes and maintains public confidence in the profession, and promotes and maintains proper professional standards and conduct for members of the profession.

Determination on Sanction - 23/04/2024

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

The Evidence

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

97. Dr Benn gave further evidence to the Tribunal on 19 April 2024. She referred to the earlier sentencing remarks of HHJ Kelly and their reference to the consequences of the 14 September 2022 protest, that the Tribunal had referred to in its impairment determination, and which included the impact of the protests on public resources.

98. Dr Benn referred to the fact that the group had been sitting in the access road at the Terminal. She stated that, for most of the time, traffic was coming past in a normal manner and members of the public were going about their daily business. Dr Benn stated that, at one point, the police did stop the traffic as they had brought in a lot of police vans to arrest the protestors. She stated that it was actually unnecessary to close the road and that the group was not doing anything that impacted members of the public at all. Dr Benn stated that, if the road was closed for any duration of time, then that was a policing decision that she thought was for their convenience rather than being a necessity.

99. Dr Benn stated that it was a police decision as to how to manage the protest and that there was no need for resources to be diverted '*en masse*' to clear that number of people. She stated that the police could have removed people one by one or left it until such time as resources were available as she stated that the group were simply sitting or standing there. Dr Benn stated that the group was not causing any problem and that she thought it was very clear that if there had been a major event such as an armed robbery that required police intervention then they would have been diverted immediately and not remained policing the group at a very peaceful protest.

100. Dr Benn stated that she accepted that officers worked past their shifts to process those being arrested and that there was a cost to this. She stated that it was a choice of how to use resources and for it to be managed in that way. Dr Benn stated that the High Court judge's perception of the harm caused was different to hers. She stated that HHJ Kelly was relying on what was said by the police, which she was not saying was untrue, but that it gave a certain flavour to things. Dr Benn stated that she wanted to be able to correct that from her point of view for the record.

101. Dr Benn answered a number of questions from the Tribunal. She was asked how the police could know that the intent of the group demonstrating was for non-violent protest. Dr Benn stated that they were clearly badged as being with Just Stop Oil, which had been operating for some time by this point and their messaging had always been non-violent and has continued to be so. She stated that there was nothing to suggest this time would be any different. Dr Benn referred to the group as simply holding their placards, occupying the space, chanting, and speaking to camera.

102. Dr Benn was asked whether she accepted that there were risks that individuals at the Terminal and members of the public might not have agreed with the actions of the group. She stated that there was always the possibility, as with any kind of protest, that others being impacted may not agree but that this certainly did not happen here. Dr Benn stated that being involved with Just Stop Oil means that you undergo some training in non-violent action. This involves completing role play of how to maintain non-violence if there is any escalation.

103. Dr Benn stated that there was always a risk of escalation where people have different views, interpretations, or that they do not immediately grasp what is going on. She stated that Just Stop Oil foresees that risk and manages it. Dr Benn referred to the protests that are the subject of this hearing. She stated that there was no violence and there was no risk. Dr Benn was asked whether she accepted that there was a risk of public disorder, in

circumstances where members of the public do not agree with the actions of protestors. She stated that there was a risk but that it was tiny. She stated that the risk was tiny because of everything she had set out and this was borne out by the fact that nothing happened.

104. Dr Benn was asked whether it was her position that in a circumstance where 50 people deliberately broke the law that the police should not invoke a significant response to that. Dr Benn stated that it depended on what was meant by a significant response. She stated that the police had assessed the situation for quite a prolonged period of time and a number of police officers had asked for details of what they were doing and how long they were likely to be. Dr Benn stated that the police brought a large number of police officers because they wanted to manage the situation by getting everyone processed at the same time; and that it was not because they thought there was a risk of escalation or something suddenly happening. She stated that she understood that this was for organisational reasons but that the police did not have to do it that way as the group was non-violent.

105. Dr Benn was asked whether she agreed that a police response in such circumstances was partly about protecting all parties including those who were protesting, and also about protecting the integrity and infrastructure of the Terminal. Dr Benn said she did accept that but that, in terms of the Terminal, this was something that the police could and do assess. She stated that the group was clearly stationary, had made it clear that it would be non-violent, and that it was very relaxed. Dr Benn stated that there was nothing to suggest that there was going to be any danger.

106. Dr Benn was asked about the fact that a police response was required if they were going to uphold the law. She answered that this was the case but that the point that she was trying to make about HHJ Kelly's comments was that there was no need for a massive police response to have occurred. Dr Benn stated that the number of police involved was because of the number of people protesting who needed to be processed but stated that it just was not necessary to have that many police arresting people in order to uphold the law. She stated that the police could have arrested the group over a longer period of time as the group was just sat there. Dr Benn stated that ultimately it was down to the Tribunal's judgement and opinion.

Submissions

Submissions on behalf of the GMC

107. Ms Rolfe submitted that the appropriate and proportionate sanction in this case was one of suspension. She stated that the purpose of regulation is to protect the public and, that in this case, this specifically meant promoting and maintaining public confidence in the profession and upholding professional standards and conduct for medical professionals.

108. Ms Rolfe referred to the approach that the Tribunal should take, including that it should first consider the least restrictive option available and then work through until the proportionate and appropriate sanction is reached.

109. Ms Rolfe stated that the Tribunal's helpful determination on facts and impairment had set out a number of factors which are now relevant to sanction. She stated that this case featured repeated breaches of the law by virtue of the breaching of the Injunction on a number of occasions and the contempt of court that followed. Ms Rolfe stated that the impact that this had on police operations, which has been to the topic of Dr Benn's evidence at this stage of the hearing, occurred as a result of the breaches. Ms Rolfe stated that, as a result, those actions had led the Tribunal to find that Dr Benn was not acting in accordance with paragraph 1 of GMP, in that a doctor must act within the law.

110. Ms Rolfe stated that Dr Benn had accepted, and the Tribunal had taken note of the fact, that doctors should be held to a higher standard of conduct. She stated that, in its finding on impairment, the Tribunal had concluded that Dr Benn's motivation was not enough to justify a caveat to the fundamental tenet that a doctor must act within the law. Ms Rolfe stated that the Tribunal had also found that paragraph 65 of GMP was engaged in that the public's trust extends to the fact that doctors will be law abiding citizens who comply with the requirements of their regulator, and not just that they are a good doctor clinically. Ms Rolfe stated that the Tribunal had found that the public would not condone law breaking, even if the motivation was something for which people have sympathy.

111. Ms Rolfe stated that Dr Benn's case was one where there were breaches of the law on a number of occasions, and she reminded the Tribunal that it had determined that there was a high likelihood of recurrence. Ms Rolfe submitted that Dr Benn had limited insight into the impact of her actions, demonstrated in part in her answers to the Tribunal's questions set out above.

112. Ms Rolfe stated that the GMC's position was that the least restrictive option that would be appropriate in this case was one of suspension. She referred to the Sanctions Guidance (5 February 2024) ('the SG'). Ms Rolfe stated that suspension was described in the

SG as having a deterrent effect and that it could be used to send out a signal to the doctor, the profession, and the public about what is regarded as behaving unbefitting of a registered doctor.

113. Ms Rolfe submitted that Dr Benn's case was not one where erasure of her name from the medical register would be necessary as her behaviour was not fundamentally incompatible with remaining a doctor. She observed that this case did not involve clinical practice.

114. Ms Rolfe stated that conditions, which would be less restrictive than suspension, must be workable. She submitted that there were no conditions that could be compatible with the conduct that Dr Benn has expressly stated that she intends to continue to engage in.

115. Ms Rolfe stated that some elements within the section on suspension in the SG were not consistent with the particular circumstances of this case. She referred to paragraph 93 of the SG, where it is noted that 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*". Ms Rolfe stated that Dr Benn's case did not fit with this as there was a high likelihood of repetition and that remediation in this case would mean ceasing to act in the way that she has (namely outside of the law), and she has expressly stated her intention to continue.

116. Ms Rolfe stated that the Tribunal has asked questions of Dr Benn in relation to the impact of the protest on wider public resources. She submitted that the Tribunal might find, depending on its take on the evidence given by Dr Benn, that Dr Benn still has limited insight into the necessary risk adverse response that the police had to take in response to the protests. Ms Rolfe stated that it was a matter for the police and their professional judgement to decide how to protect the public and uphold the law.

117. Ms Rolfe submitted that, in a case with repeated breaches and a stated intention on Dr Benn's part to continue to continue to act outside of the law, the GMC say that there was need for suspension as a deterrent effect and to send a signal about what is appropriate behaviour. She submitted that the only sanction that was appropriate and workable was suspension.

118. The Tribunal asked Ms Rolfe if there were any submissions from the GMC as to the length of any suspension. She submitted that the length should be one that was not at the

upper end of the 12-month maximum. Ms Rolfe stated that this case involved no clinical concerns, but that Dr Benn's conduct needed to be marked to show that it was unbecoming of the profession, and this marker was not particularly impacted by the length of any suspension.

Submissions from Dr Benn

119. Dr Benn stated that she agreed with the GMC position that accepting undertakings or imposing conditions were not appropriate sanctions.

120. Dr Benn stated that suspension had been suggested as the sanction most appropriate by the GMC as it would have a deterrent effect and send a signal to her, the profession, and the public about what is regarded as behaviour unbecoming of a registered doctor. Dr Benn stated that, as set out by Ms Rolfe, suspension was a response designed for conduct so serious that action must be taken to maintain public confidence in the profession. She stated that her conduct was not felt by the GMC to be fundamentally incompatible with continued registration.

121. Dr Benn stated that the factors within the SG indicating that suspension might be the appropriate sanction were that a doctor was prepared to engage in remediation, there was no evidence of repetition, and that they had insight. Dr Benn submitted that, to be absolutely clear and truthful, her position was unchanged from when she was invited to comment on the GMC investigation in 2021. She said that, back then, she had stated that she would not undertake to refrain from future participation in similar acts of non-violent, disruptive civil disobedience, including breaking the law, which she had done on four occasions in the context of the climate crisis. Dr Benn stated that she had also said that she was not likely to be willing to undertake remediation. Dr Benn submitted that all that had changed since those comments in 2021 was that she would now definitely not engage in remediation, assuming that remediation means a process of improving or correcting a situation and assuming that the situation was her continued involvement in climate activism which might involve law-breaking. Dr Benn stated that she intended to continue taking action with as much intensity as she could muster until such time as the government takes some meaningful, urgent action to protect its citizens and future generations from the effects of climate breakdown.

122. Dr Benn agreed that, as of today, we are in the position where the risk of repetition of her behaviour is high. She stated that, for clarity, she did not want to break the law and had never wanted to. Dr Benn stated that she would not break the law for any other reason than

to protect life. She stated that she would never be violent and would stop when urgent government action is taken over the climate and ecological emergency.

123. Dr Benn stated that the Tribunal and GMC judged her to lack insight into the consequences of her behaviour on the reputation of the profession and the trust of the public. Dr Benn submitted that she retained insight into the likely consequences in both those domains. She stated that both the reputation of the profession and the trust of the public would be impacted, when the horrendous climate and ecological catastrophe really starts to bite, and people realise that they have been utterly failed by those who knew or suspected that something terrible was unfolding and chose to do nothing beyond things like recycling and low energy light bulbs. Dr Benn submitted that the GMC and Tribunal processes demonstrated a total lack of insight into the climate emergency, its consequences and the urgency required to address it.

124. Dr Benn, in addressing her insight into the effect of her actions in terms of disruption to ordinary people, stated that she had caused more disruption in 2019 in London when she sat down in the road on two occasions and was arrested and charged with wilful obstruction of the highway. Dr Benn stated that the difference now was that she had broken the terms of the Injunction and thereby there was contempt of court.

125. Dr Benn stated that, in terms of her insight into the effect of her actions on police resources, protest was an essential part of democracy, and it should, and must, have resources allocated to it, just like resources are allocated to policing the London Marathon.

126. In terms of sanction, Dr Benn submitted that it was pointless to suspend her as it was only likely to delay the inevitable erasure of her name from the medical register. Dr Benn stated that the GMC currently had another case open on her in terms of a Magistrate's Court conviction and three further charges against her that would be proceeding to jury trial at the Crown Court in due course. Dr Benn stated that she had had ample time to reflect on her situation and assured the Tribunal that suspension would not assist her in reaching a different mindset.

127. Dr Benn stated that she did not regret what she had done and intended to continue in the way that she has outlined. Dr Benn submitted that this was not said in defiance or pique; it was a calm and honest statement of fact. She also stated that she did not relish the prospect of preparing for, waiting for, and then partaking in further MPTS proceedings, nor did she wish for more time, money and energy to be expended on them.

128. Dr Benn submitted that, if what she had done was in the Tribunal’s view behaviour so unbefitting of a registered doctor, the Tribunal should be clear in its communication and erase her name from the medical register. She stated that, if such a decision was reached, she was at peace with that and had known it might happen. Dr Benn stated that, to be clear, she was definitely not arguing that the Tribunal’s first choice of response should be erasure. She referred to previous Tribunal determinations and stated that she had seen cases resulting in erasure with serious misconduct that really would undermine public trust and the reputation of the profession, including cases involving sexual relationships with patients, possession of child sex abuse materials, physical violence, and deeply racist or extremist views. Dr Benn submitted that she did not feel that she fell into that category. She stated that there was another option in that the Tribunal could instead take no action on her registration.

129. Dr Benn stated that taking no action was open to the Tribunal if it determined that exceptional circumstances applied. She referred to the SG, in that “*exceptional circumstances are unusual, special or uncommon, so such cases are likely to be very rare*”. Dr Benn stated that she would explain why her case was such a case.

130. Dr Benn stated that the climate emergency is a challenge of danger, complexity and existential threat that has never been faced before by humanity. She stated that the response to this threat has been so slow that it now required urgent and drastic action. There have been decades of targeted green washing, political under-ambition, backtracking and legal protest. Dr Benn stated that, in 2019, the UK Parliament declared a climate emergency. She asked whether it felt like our government and institutions were leading us through an emergency.

131. Dr Benn referred to an article from The Daily Telegraph with the headline of ‘*Farmers are warning of food shortages as record rainfall threatens to bring the first season without a harvest since the end of the Second World War*’. She read out a section of the article. Dr Benn also submitted a graph that had been plotted by a retired maths professor entitled ‘*Global Surface Temperature Anomaly: 1941-2024*’.

132. Dr Benn submitted that scientists tell us that we cannot continue to burn fossil fuels if we are to avert disaster and that we must turn off the tap. She stated that the government instead enables oil companies to make excessive profits as they ensure the destruction of our biosphere. Dr Benn submitted that the climate emergency was a health emergency and a

global social justice emergency. She stated that a huge number of health professionals had shouted this out for years using entirely legal and democratic means in terms of publishing their research, lobbying politicians and engaging in educational campaigns. Dr Benn stated that CO2 levels were continuing to rise and so does global heating. She stated that she was ‘blowing her whistle’ in a different way and will continue to do so.

133. Dr Benn referred to the 2019 matters leading to the advice from the GMC in 2021. She stated that she knew that the GMC had no issue with her protesting per se and that her protests in 2019 in Central London culminated in a letter of advice when her GMC case was closed. Dr Benn stated that, as advised, she had reflected. She stated that the difference here, in terms of what she did in 2022, was that peaceful protest outside the Terminal had been made illegal through the imposition of the Injunction. Dr Benn stated that this piece of civil law was brought to stop protests and frighten protesters away for fear of severe financial penalty, imprisonment, and the consequences that may arise as a result. She stated that for her, as a professional person, this was facing severe disciplinary consequences.

134. Dr Benn stated that the fundamental rule of law was designed to protect all of us but that using civil law to quash peaceful and necessary action was manifestly not a good, moral and just use of the law. She stated that she made no apology for breaking the Injunction at the Terminal.

135. Dr Benn referred to the Tribunal’s previous determination that her impairment is potentially easily remediable in that she just needed to stop breaking the law, which would not preclude her future involvement in environmental protest. Dr Benn stated that she understood this but that it was not this easy. She submitted that she would love there to be a different way that seemed to have any plausible chance of getting us out of trouble, but she just did not see it. Dr Benn stated that anyone and everyone could do something. She stated that they could become vegan, vote Green, write to their MP, and inform themselves properly about the science behind the emergency, but an individual cannot change the world or the understanding of that section of the public that it is thought unachievable to reach. Dr Benn stated that she could not do this alone.

136. Dr Benn stated that, regarding trust, there would always be a section of the population that just could not and would not understand the actions of Just Stop Oil and other similar protest groups. She asked, ‘*should we not even try to explain?*’. Dr Benn stated that there was likely still a section of UK society that did not trust a doctor whose skin colour was different to their own. She stated that this section was shrinking and that the group that

did not understand the danger of climate breakdown was shrinking too. Dr Benn submitted that she thought the group of people that would judge the whole profession to be dishonourable if one doctor acted out of conscience, as she had done, was also shrinking.

137. Dr Benn stated that it needed those with particular influence and privilege by virtue of their positions in organisations and institutions to act with courage and conviction. She submitted that politicians are failing us in routinely rowing back on climate promises and gaslighting the population into believing that aspirational targets (which are never achieved in reality) will save the day. Dr Benn submitted that there would come a time of reckoning. She stated that the public will want answers and, as the climate obviously starts to break down, the trust in politicians would evaporate.

138. Dr Benn stated that it was hoped that the police can pause a bit longer before they arrest those engaged in peaceful climate protests and that Tribunals can think outside the box.

139. Returning to what constituted exceptional, Dr Benn submitted that she did not think it was often that a UN rapporteur felt minded to make a special statement of concern about a triple planetary emergency and about a case such as hers that might represent a breach of a binding obligation under an international treaty if professional sanctions are applied. She questioned whether a doctor had been sanctioned before for undertaking action for a matter of conscience. Dr Benn stated that, if not, then she contended that her case was such an exceptional case. She stated that this was an emergency. Dr Benn stated that if the Tribunal felt that there was an ounce of justification for her argument then it should exercise its judgement to find that this was an exceptional case.

140. Dr Benn stated that the guidance was not fit for purpose in this unusual situation. She stated that she suspected that this situation would not remain unique as other doctors driven by care and concern are coming through the Tribunal pipeline. Dr Benn stated that it was perhaps a good time to reevaluate the way in which such cases can be dealt with and see if the process remains fit for purpose in 2024 and beyond. Dr Benn submitted that the Tribunal could think a little outside of the box.

141. Dr Benn stated that being a doctor had been a core part of her identity for most of her adult life and that, obviously, she would prefer to remain on the medical register. She stated that, if this could not be, she was at peace with such an outcome as she had tried her best to do the right thing and, as such, had no regrets. She reiterated that we are in an

emergency situation. Dr Benn stated that there was no medicine on a dead planet, where there would be no tribunals and no GMC.

142. Dr Benn asked everyone in the room to ask themselves if they know enough about climate change and how urgent it is. Dr Benn stated that if it did not feel quite right to suspend or erase her name from the register then this should not be done. She stated that the Tribunal should not just '*kick the can down the road*' and should take no action.

The Tribunal's Determination on Sanction

143. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement. The LQC stated that the Tribunal should take a proportionate approach to the issue of sanction. It should weigh the interests of the public against those of Dr Benn.

144. In reaching its decision, the Tribunal should take account of the SG and of the overarching objective. It should bear 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.

145. The LQC stated that the Tribunal would not ordinarily hear details of any other cases that are open for investigation against a doctor. She stated that Dr Benn had put that information before the Tribunal and asked it to have regard to that information insofar as it related to her submissions in relation to sanction. The LQC stated that, in those circumstances, it would be appropriate for the Tribunal to take into account what Dr Benn has said about other GMC cases that she has open against her.

Dr Benn's Additional Evidence

146. The Tribunal remained of the view that Dr Benn does not have full insight into the impact of the response required by the police and other agencies to the breaching of the Injunction. Dr Benn accepted the potential for an inflammatory response from other people and that a police response was about protecting all at the scene and upholding the law. The Tribunal considered that Dr Benn's evidence that the police could arrest the protesters one at a time showed a naivety in respect of the risks that the police were managing and how those might escalate over time. The Tribunal concluded that Dr Benn's evidence enhanced its concerns about her insight as set out in the previous determination.

Aggravating and mitigating factors

147. In terms of aggravating factors in this case, the Tribunal has found that Dr Benn's actions were repeated, planned, and deliberate. The Tribunal noted that there has been clear rejection by Dr Benn of remediation and of the advice offered by her regulator. Dr Benn has demonstrated limited insight into the implications of her actions. She has a deep-seated belief in the veracity of evidence on the impact of climate change, that she describes as justifying her decision to repeatedly not comply with the law. This is closely linked to the risk of repetition in the future.

148. With regard to mitigation, the Tribunal had regard to the fact that Dr Benn is a very experienced doctor who has provided a number of positive testimonials. There are no clinical concerns in this case. The Tribunal also took account of the fact that Dr Benn has no previous fitness to practise findings and she has fully engaged in this process, including self-referral and admissions to the facts at an early stage.

No action

149. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Benn's case, the Tribunal first considered whether to conclude the case by taking no action. It carefully considered the submissions made, including Dr Benn's submissions that the Tribunal could decide, exceptionally, to take no action in this case.

150. The Tribunal determined that, given its findings on misconduct and impairment, there were no exceptional circumstances in this case to justify taking no action on Dr Benn's registration. It noted in particular that there is no remediation and a high risk of repetition and therefore to determine to take no action in such circumstances would not uphold the wider public interest. The Tribunal reminded itself of paragraph 76 of the decision on misconduct, that it is not for this Tribunal to seek to reframe the obligations of a doctor set out by the GMC within GMP or to caveat the requirement to act within the law by deciding on circumstances where a doctor is permitted to deliberately act outside the law.

151. The Tribunal concluded that taking no action would be inappropriate and insufficient, and that to do so would risk damaging public trust in doctors and the system of regulation.

Conditions

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

153. The Tribunal had regard to paragraph 81 of the SG, in that conditions might be most appropriate in cases involving the doctor’s health, involving issues around the doctor’s performance, where there is evidence of shortcomings in a specific area of the doctor’s practice, or where there is a lack of necessary knowledge of English to practise medicine without direct supervision. The Tribunal determined that these factors were not relevant in Dr Benn’s case.

154. In terms of paragraph 82 of the SG, conditions are likely to be workable where the doctor has insight, a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings, the Tribunal is satisfied the doctor will comply with them, and where the doctor has the potential to respond positively to remediation or retraining.

155. The Tribunal, having regard to its findings on impairment, determined that it was unable to formulate any workable or appropriate conditions that would adequately address the need to maintain public confidence and uphold proper professional standards and conduct for the members of the profession. It further noted Dr Benn's willingness and express intention to continue to participate in acts of non-violent, disruptive civil disobedience, which might include breaking the law.

Suspension

156. The Tribunal then went on to consider whether suspending Dr Benn’s registration would be appropriate and proportionate. In doing so, it had regard to the aggravating and mitigating factors listed above and considered paragraphs 91 to 93 of the SG, which state:

“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...”

157. The Tribunal had regard to its findings in respect of misconduct and impairment. The Tribunal considered that suspension can have a “*deterrent effect*” and can be used to “*send out a signal to the doctor, the profession and public about what is regarded as behaviour unbecoming a registered doctor*”.

158. The Tribunal noted that there has been no acknowledgement from Dr Benn that what she has done by breaking the law was wrong and no evidence that she has taken steps to remediate her actions. The Tribunal noted that she stated that she made no apology for her actions in breaking the law and breaching the Injunction. The Tribunal took account of Dr Benn’s submissions in which she stated that she would continue with her actions, and of its comments at the impairment stage, that there was a strong likelihood of repetition.

159. The Tribunal determined that paragraph 97(a) of the SG applied in this case:

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

a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that

a sanction lower than a suspension would not be sufficient to protect the public.”

160. The Tribunal has previously noted that there was a clear rejection by Dr Benn of remediation and of the advice offered by her regulator. Dr Benn has demonstrated limited insight into the implications of her actions. The Tribunal had regard to Dr Benn’s position. It reiterated its comments at the impairment stage that, in principle, matters were easily remediable in that Dr Benn could decide for herself not to break the law again and doing this would not preclude her continued involvement in environmental activism. While indications were not reassuring, the Tribunal did not wish to discount the possibility of Dr Benn developing insight into the importance of complying with the law and paragraph 1 of GMP.

161. The Tribunal considered whether erasure of Dr Benn’s name from the medical register would be necessary and appropriate. It had regard to paragraph 108 of the SG in that a Tribunal may erase *“where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession”*.

162. The Tribunal determined that the following two sub-paragraphs of 109 of the SG were engaged in this case:

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

...

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

...

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

163. While the Tribunal was mindful that these two factors at paragraph 109 of the SG applied in this case, it did not regard these as requiring a sanction of erasure as a result. The Tribunal, having regard to all the circumstances in this case, determined that Dr Benn’s actions did represent a *“serious departure from Good medical practice”* but not, in accordance with paragraph 109(a) of the SG, a *“particularly serious departure from the principles set out in Good medical practice where the behaviour is difficult to remediate”*. The Tribunal concluded that the misconduct was not *“so difficult to remediate that complete removal from the register is in the public interest”* or, with reference to paragraph 108 of the

SG, “*where [erasure] is necessary to maintain public confidence in the profession*”. It concluded that erasure of Dr Benn’s name from the medical register would be an unnecessary and disproportionate response to the facts it has found proved, and its findings on misconduct and impairment.

164. The Tribunal makes clear that the sanction it is imposing is not intended to punish, nor is it a response to Dr Benn’s expression of her views or to her undertaking protest action as a matter of social conscience. It is a consequence of Dr Benn’s misconduct and the impairment of her fitness to practise arising out of her repeatedly acting outside of the law.

165. In all the circumstances, the Tribunal determined to suspend Dr Benn’s registration. It was of the view that this would appropriately and proportionately mark the seriousness with which the Tribunal viewed Dr Benn’s misconduct, as well as sending out a signal to “*the profession and public about what is regarded as behaviour unbefitting a registered doctor*”.

Length of suspension

166. The Tribunal had regard to paragraph 100 of the SG, which sets out the factors which are relevant when determining the length of suspension. They are:

- a the risk to patient safety/public protection*
- b the seriousness of the findings and any mitigating or aggravating factors...*
- c ensuring the doctor has adequate time to remediate.”*

167. The Tribunal noted that Dr Benn’s misconduct did not give rise to concerns about patient safety, and that there was evidence that Dr Benn was an experienced doctor, also noting that she relinquished her licence to practise in 2022. The Tribunal had regard to its findings on misconduct and impairment, and the clear, serious departure from GMP.

168. The Tribunal has noted that Dr Benn is reluctant to undertake remedial action and has said she will continue with her actions. The Tribunal reiterated its comments that, while indications are not reassuring, it did not wish to discount the possibility of Dr Benn developing insight into the importance of complying with the law and paragraph 1 of GMP in the future. In this vein, the Tribunal needed to ensure that the period of any suspension ensured that Dr Benn was given adequate time to remediate and document any new reflections, should she choose to do so.

169. The Tribunal determined that a period of five months was appropriate in this case. It concluded that this time period was proportionate in terms of the misconduct found, as balanced with the other factors including ensuring adequate time for the development of insight and remediation. It also determined that this time period would be sufficient to uphold limbs *b* and *c* of the overarching objective, namely, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Review hearing directed

170. The Tribunal considered that the purpose of a review hearing was to allow a reviewing tribunal to determine whether any outstanding concerns identified by this Tribunal had been addressed, for example incomplete insight and lack of remediation, and whether a doctor remains impaired or can safely resume unrestricted practice after a period of conditions or suspension.

171. The Tribunal had regard to the relevant paragraphs of the SG, including paragraph 164, that:

“...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... 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.”*

172. The Tribunal determined to direct a review of Dr Benn’s case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that, at the review hearing, the onus will be on Dr Benn to demonstrate whether matters have changed. The persuasive burden will be on Dr Benn to show that her fitness to practise is no longer impaired.

173. It therefore may assist the reviewing Tribunal if Dr Benn were to provide evidence of any reflections, insight and remediation in relation to the importance of compliance with the law for a doctor. Dr Benn will also be able to provide any other information that she considers will assist the review hearing.

Determination on Immediate Order - 23/04/2024

174. Having determined to suspend Dr Benn's registration for five months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Benn's registration should be subject to an immediate order.

Submissions

175. Ms Rolfe, on behalf of the GMC, stated that this was not a case where the GMC consider that an immediate order is necessary. She stated that this case had no clinical involvement, which would be the most pressing reason why an immediate order would be necessary, and so the GMC did not ask for that in this particular case.

176. Dr Benn did not have any submissions to make on the question of immediate order.

177. It was confirmed that there was no interim order in place on Dr Benn's registration.

The Tribunal's Determination

178. In making its decision, the Tribunal had regard to the relevant paragraphs of the SG, including:

"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.”

179. The Tribunal had regard to its findings and conclusions, as set out in its previous determinations, including that it had found that Dr Benn's actions represent a serious departure from GMP. As previously stated, the Tribunal noted that there are no clinical concerns in this case and determined that there was no risk to patient safety.

180. In all the circumstances, the Tribunal determined not to impose an immediate order of suspension on Dr Benn's registration. The Tribunal considered that the substantive suspension would be sufficient to send out the relevant signal in order to uphold limbs *b* and *c* of the overarching objective, which are to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of the profession. The Tribunal also determined that public confidence would not be undermined if no immediate order was imposed.

181. This means that Dr Benn's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served, unless she lodges an appeal. If Dr Benn does lodge an appeal the commencement of the five-month suspension will be dependent on the outcome of that appeal.

182. There is no interim order to revoke.

183. That concludes this case.

SCHEDULE 1

The Injunction essentially prohibited a number of named individuals, as well as '*persons unknown*', from participating in protests against the production and use of fossil fuels at the Terminal. The Injunction made clear that a breach of the order may result in being held to be in contempt of court and liable to be imprisoned, fined or having assets seized.