

PUBLIC RECORD

Dates: 22/05/2024 - 23/05/2024

Medical Practitioner's name: Dr Shunmugam Raganath SHUNMUGAM
GMC reference number: 6124226
Primary medical qualification: MB BS 2004 Annamalai University

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

Summary of outcome

Suspension, 3 months.

Tribunal:

Legally Qualified Chair	Miss Gill Batts
Lay Tribunal Member:	Mr Andy Donovan
Medical Tribunal Member:	Dr Kate Thomas
Tribunal Clerk:	Ms Evelyn Kramer

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Ben Rich, Counsel, instructed by the Medical Defence Union (MDU)
GMC Representative:	Ms Harriet Tighe, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held 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 - 22/05/2024

Background

1. Dr Shunmugam qualified from Annamalai University, India in 2004.
2. Dr Shunmugam completed his Cardiology training programme at Eastbourne General Hospital on 3 October 2023. He was offered a consultant post but did not accept it because of the distance between Eastbourne General Hospital and his family home. His employment ended on 3 October 2023 and therefore he was not employed on 4 October 2023, when he was involved in a road traffic collision with another vehicle. The police were called and attended at the scene. Dr Shunmugam was found to be under the influence of alcohol.
3. The allegation that has led to Dr Shunmugam's appearance before the Tribunal can be summarised as on 19 October 2023, at Croydon Magistrates' Court, Dr Shunmugam pleaded guilty and was convicted of driving over the prescribed limit. Dr Shunmugam was found to have 120 microgrammes of alcohol in 100 millilitres of breath, which is over three times over the prescribed legal alcohol limit for driving. Dr Shunmugam was sentenced to eight weeks imprisonment, suspended for 12 months and sentenced to an Alcohol Abstinence and Monitoring requirement for 90 days. Dr Shunmugam was disqualified from holding or obtaining a driving licence for 30 months.
4. Having been charged on 4 October 2023 for drink driving, Dr Shunmugam referred himself to the GMC on 5 October 2023.

The Allegation and the Doctor's Response

5. The Allegation made against Dr Shunmugam is as follows:
 1. On 19 October 2023 at Croydon Magistrates' Court you were:

- a. convicted of an offence, namely that on 4 October 2023 at South Croydon in the Borough of Croydon, you drove a motor vehicle on a road, after consuming so much alcohol that the proportion of it in your breath, namely 120 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit, contrary to section 5(1) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;

Admitted and found proved

- b. sentenced to:

- i. eight weeks imprisonment suspended for 12 months;

Admitted and found proved

- ii. an Alcohol Abstinence and Monitoring requirement for 90 days;

Admitted and found proved

- c. disqualified from holding or obtaining a driving licence for 30 months.

Admitted and found proved

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

To be determined

The Admitted Facts

6. At the outset of these proceedings, Dr Shunmugam, through his counsel, Mr Rich, admitted the facts of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced the facts of the Allegation as admitted and found proved in full.

Determination on Impairment

7. 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 Shunmugam's fitness to practise is impaired by reason of a conviction for a criminal offence.

The Evidence

8. No witnesses were called on behalf of the GMC. It relied on the documentary evidence adduced.

9. Dr Shunmugam provided his own written statement, dated 21 May 2024 and gave oral evidence at the hearing.

Summary of Dr Shunmugam's Evidence

10. Dr Shunmugam explained the circumstances leading up to his decision to drink and drive on 4 October 2023. He said that he was stressed and upset about no longer being in employment as a doctor. He said he was also worried about the consequences for his family.

11. Dr Shunmugam explained that he went for a short drive around his local area, and stopped at an off-licence on the way back to purchase alcohol. He bought 400ml of whisky and 2 bottles of beer. He said that he planned to go home and have a drink. However, he said he then spoke to a Consultant colleague from Eastbourne General Hospital. This caused further distress and he decided to drink the alcohol he had bought in his car. He parked up in a side street off the main road in the middle of the afternoon. He accepted that this was a built-up area which was used by pedestrians and other road users. He drank the whisky and one and a half bottles of beer.

12. In his statement, Dr Shunmugam wrote *'I think I decided not to finish the second bottle [of beer] as I started to feel bad about drinking during the day and while sitting in the car. At that point I just wanted to go home and not drink any more. I thought at the time that as it was a very short distance to get home, I would be ok driving.'*

13. On his drive home, Dr Shunmugam was involved in a collision with another vehicle, a taxi carrying passengers. The taxi driver confronted Dr Shunmugam and said *'he would call the police'*. Dr Shunmugam said that he sought to remove bottles of alcohol from his car, this included those he had bought at the off-licence earlier in the afternoon, and empty bottles that he had not been able to recycle in Eastbourne. Dr Shunmugam said that he walked up to the main road and away from the direction his family members would be coming from because he did not want to be seen by them. He was then stopped by the police, breathalysed and arrested.

14. In his statement, Dr Shunmugam wrote:

'I admitted to the police officers that I had been drinking before I was cautioned. I was taken to the police station, and after 2 breath tests, was charged with drink driving. I reported myself to the GMC the next day. I pleaded guilty to drink driving at the Magistrates' Court and was convicted on 19 October 2023. I was sentenced to 8 weeks in prison suspended for 12 months and alcohol abstinence monitoring until 17 January 2024. The monitor was fitted in mid-November 2023 and monitored my sweat until it was removed on 17 January 2024 for traces of alcohol. Had any been detected, I expect I would have been remitted to prison. I was required to pay a fine of £154 and CPS cost of £85. I was disqualified from driving for 30 months, to be reduced by 30 weeks if I completed a drink driving rehabilitation course.

I recognise that I made an irresponsible decision to relieve the stress I was feeling with alcohol and made a dangerous decision to drive after consuming alcohol. I have regretted it everyday since. I am ashamed of what happened and very conscious that I could have caused even more serious harm to the community I have lived in for 10 years. I realised that I could have taken a life. I recognise that people place trust in doctors for their wellbeing and their lives and I seriously undermined this truth through my actions.'

15. Dr Shunmugam explained that he has made lifestyle changes, including reducing the frequency and amount of alcohol he drinks. He said he has been open about his conviction with *'family, friends and colleagues'*. He undertook the drink driving rehabilitation course in February 2024 and set out his learning and reflections.

Documentary Evidence

16. The Tribunal received documentary evidence which included but was not limited to:

- The Certificate of Conviction from Croydon Magistrates' Court, dated 19 October 2023;
- Dr Shunmugam's self-referral email to the GMC, dated 5 October 2023;
- Documents provided by the Metropolitan Police:
 - A case summary,
 - A summary of Dr Shunmugam's police interview, dated 5 October 2023;
 - and

- A police witness statement of a third party witness, dated 4 October 2023.
- Drink-Drive Rehabilitation Certificate, dated 22 February 2024;
- Three written testimonials provided in support of Dr Shunmugam, dated between 25 March and 19 May 2024;
- A statement from Dr Shunmugam’s current Responsible Officer, dated 1 May 2024.

Submissions

On behalf of the GMC

17. On behalf of the GMC, Ms Tighe reminded the Tribunal that the decision on impairment is a matter for the Tribunal’s independent judgment. Ms Tighe submitted that Dr Shunmugam’s fitness to practise is impaired. She referred the Tribunal to the test in *CHRE v NMC and Paula Grant* [2011] EWHC 927 Admin (‘*Grant*’) and submitted that limbs *b* and *c* were engaged:

‘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. ...

b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession

d. ...’

18. Ms Tighe submitted that Dr Shunmugam’s actions breached paragraphs 1 and 65 of Good Medical Practice (2013) (GMP):

1. Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and

maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.

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

19. Ms Tighe referred to the more serious elements of Dr Shunmugam's conviction including that his drink driving resulted in a collision with another vehicle, a mini cab carrying passengers; the timing of the incident, it was mid-afternoon where there would have been other road users and pedestrians around; and he was over three times the legal limit for consuming alcohol and driving.

20. Ms Tighe submitted that Dr Shunmugam had shown some insight into his conviction and had expressed some remorse. Ms Tighe acknowledged that Dr Shunmugam had completed the requirements of his suspended sentence order, including the alcohol abstinence monitoring and drink driving rehabilitation course. However, she submitted that Dr Shunmugam will not be able to fully remediate his conviction until his suspended sentence has been completed on 18 October 2024. She submitted that on this basis, the Tribunal could conclude that there remains a risk of repetition.

21. Ms Tighe submitted that a finding of impairment is required to reaffirm to the public and to doctors the standard of conduct to be expected. Further, she submitted Dr Shunmugam's conviction was so serious that public confidence in the profession would be undermined if a finding of impairment was not made. Ms Tighe referred the Tribunal to the overarching objective, she recognised that in a very broad perspective, the wellbeing of the public would have been impacted by Dr Shunmugam's actions. Ms Tighe submitted that a finding of impairment was required to maintain public confidence in the medical profession and to uphold proper professional standards and conduct for members of the medical profession.

On behalf of Dr Shunmugam

22. On behalf of Dr Shunmugam, Mr Rich conceded that a finding of impairment was necessary on the basis of Dr Shunmugam's conviction. Mr Rich submitted that Dr Shunmugam has shown full and proper insight into his wrongdoing. He admitted the offence to the police immediately, prior to being cautioned or questioned. He pleaded guilty. He informed the GMC the next day and expressed remorse for what he had done. Mr Rich

submitted that it was a particular moment in Dr Shunmugam's life and he is very conscious that it could have been a lot worse for the public than it was. Mr Rich submitted that Dr Shunmugam had learned a lot from the course he completed about his own behaviour and the devastating consequence that can arise from drink driving.

23. Mr Rich reminded the Tribunal that despite Dr Shunmugam not having a problematic relationship with alcohol, he has made lifestyle changes. Mr Rich submitted that risk of repetition is extremely low. He submitted that Dr Shunmugam has been through an incredibly embarrassing, chastening and shaming experience including having to confess his actions to his family. Mr Rich submitted that Dr Shunmugam had no previous convictions for anything of this nature. He had shown insight, expressed remorse and changed his habits. All of which, Mr Rich submitted, were strong evidence that there is not a realistic risk of repetition.

24. Mr Rich submitted that this is not a public safety case, it is a public interest case. He submitted that Dr Shunmugam accepted that his fitness to practise is impaired.

The Relevant Legal Principles

25. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and notwithstanding that Dr Shunmugam had conceded that his fitness to practise is impaired, the decision of impairment is a matter for the Tribunal's independent judgment alone.

26. The Tribunal must determine whether Dr Shunmugam's fitness to practise is impaired today by reason of his conviction for a criminal offence, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

27. The Tribunal had regard to the context and circumstances surrounding Dr Shunmugam's conviction for drink driving, which in and of itself is a serious matter. It considered that there were a number of particularly concerning features, including that Dr Shunmugam consumed a significant amount of strong alcohol in a short period of time in the mid-afternoon whilst sitting in his car in a built-up area. The Tribunal was of the view that Dr

Shunmugam had shown extremely poor judgement in deciding to drive the mile home from the off licence drunk, given the amount of alcohol he had consumed.

28. The Tribunal accepted that Dr Shunmugam's actions had breached paragraphs 1 and 65 of GMP. Having committed a criminal offence and endangered members of the public by his actions, Dr Shunmugam has brought the medical profession into disrepute and breached one of the fundamental tenets of the profession.

29. The Tribunal accepted that this serious incident was isolated. There was no evidence to suggest that Dr Shunmugam had acted in a similarly concerning manner before or since. The Tribunal bore in mind that Dr Shunmugam had made full admissions to the police; had referred himself to the GMC; had pleaded guilty at Magistrates' Court; had expressed genuine remorse and regret; had acknowledged the seriousness of his actions and how much risk he had placed the public at and how much worse it could have been.

30. The Tribunal was satisfied that Dr Shunmugam had shown insight into the nature and seriousness of his conviction. It accepted that he had made changes to his lifestyle. Dr Shunmugam has taken steps to remediate his conviction and has complied with the terms of his suspended sentence order. The Tribunal concluded that taking the facts, changes in Dr Shunmugam's personal circumstances and the evidence of insight and remediation into account, the risk of repetition in this case was low.

31. The Tribunal considered whether a finding of impairment was required to uphold the overarching objective. It acknowledged that Dr Shunmugam's actions had not placed any patients at direct risk of harm, and no members of the wider public had been harmed by his actions. However, this did not detract from the seriousness of the offence.

32. The Tribunal concluded that a finding of impairment was necessary in order 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.

33. The Tribunal has therefore determined that Dr Shunmugam's fitness to practise is impaired by reason of a conviction for a criminal offence.

Determination on Sanction - 23/05/2024

1. Having determined that Dr Shunmugam’s fitness to practise is impaired by reason of his conviction for a criminal offence, 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

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

3. No further evidence was adduced at this stage of proceedings.

Submissions

On behalf of the GMC

4. On behalf of the GMC, Ms Tighe submitted that the appropriate and proportionate sanction in this case was one of suspension. Ms Tighe referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (2024) (‘the SG’). Ms Tighe identified mitigating and aggravating factors. She submitted that this case was serious and therefore it could not be appropriate or proportionate for the Tribunal to take no action or agree undertakings.

5. Ms Tighe submitted the circumstances of this case did not fall within the type of cases referred to in paragraph 81 of the SG where an order of conditions may be imposed. Ms Tighe referred the Tribunal to paragraph 82 of the SG which sets out cases in which conditions are likely to be workable. It was submitted by Dr Shunmugam’s representatives that a condition of unpaid work could be imposed. In response, Ms Tighe submitted that such a condition would not meet the purpose of conditions as it would not provide Dr Shunmugam with a period of retraining or supervision. Further, she submitted that such an activity would not address the findings of the Tribunal. Ms Tighe submitted that the proposed condition was a requirement for Dr Shunmugam to undertake additional unpaid work, rather than it amounting to a restriction on his practice. It was also not a condition linked to his conviction which is the basis for his current impairment. Ms Tighe submitted that conditions would not

be appropriate, proportionate, workable or measurable given the serious nature of Dr Shunmugam’s conviction for driving whilst over the prescribed limit.

6. Ms Tighe referred the Tribunal to paragraphs 91, 92, 97a, e, f, and g of the SG in respect of suspension. She submitted that Dr Shunmugam’s conviction amounted to a serious breach of GMP, but his actions were not fundamentally incompatible with continued registration. Ms Tighe submitted that Dr Shunmugam’s actions were so serious that any sanction lower than suspension would not be sufficient to uphold the overarching objective.

7. Ms Tighe drew the Tribunal’s attention to paragraph 119 of the SG:

119. As a general principle, where a doctor has been convicted of a serious criminal offence or offences, they should not be permitted to resume unrestricted practice until they have completed their sentence.

8. Ms Tighe submitted that it was open to the Tribunal to impose a length of suspension that it considered appropriate and proportionate, it is not bound by the length of the suspended sentence order. She submitted that the Tribunal could conclude that driving whilst heavily under the influence of alcohol amounts to a reckless disregard for the principles set out in GMP. Ms Tighe submitted that erasure from the medical register in such circumstances would be disproportionate and not in the public interest. Ms Tighe submitted that given the Tribunal’s findings, if a period of suspension was imposed, a review hearing would not be necessary.

On behalf of Dr Shunmugam

9. On behalf of Dr Shunmugam, Mr Rich submitted that the appropriate and proportionate sanction in this case would be to impose conditions. He submitted that an order of conditions, including supervision and a requirement to complete 26 unpaid Saturday clinic sessions would be sufficient to declare and uphold standards and maintain public trust in the medical profession.

10. Mr Rich acknowledged that his sanction submission for conditions in a case of this nature was unusual. He submitted that because the Tribunal had found impairment on public interest grounds, an order of conditions including unpaid work could be appropriate, proportionate and workable. He submitted that Dr Shunmugam’s Clinical Lead would support any condition imposed for unpaid clinical work. Mr Rich drew a comparison between

imposing a condition of unpaid work with the requirement for unpaid work often attached to a Community Order or Suspended Sentence. He submitted that imposing an order of conditions, including one for unpaid work, would be a constructive way of restricting Dr Shunmugam's practice. He submitted that such a sanction would send the appropriate message to the profession that driving whilst over the prescribed limit will not be tolerated.

11. Mr Rich referred the Tribunal to the case of *CRHCP v GDC and Fleischmann* [2005] EWHC 87 (Admin) (*'Fleischmann'*), and the principle which is derived from it, set out in paragraph 119 of the SG (set out above). He also referred the Tribunal to *PSA v GDC, Naveed Patel* [2024] EWHC 243 (Admin) (*'Naveed Patel'*), in which it was held that:

'Fleischmann cannot be applied as if it were a rule; both it and the "general principle" derived from it in the [in that case GDC] Guidance must bend to the overarching requirement to impose a sanction which is just, proportionate and only that which is necessary to maintain public confidence'

12. Mr Rich reminded the Tribunal that Dr Shunmugam has completed the alcohol abstinence monitoring, drink drive rehabilitation course, and paid all his fines and costs. He submitted that for the purposes intended to come under the *Fleischmann* principle, Dr Shunmugam had completed his sentence.

13. Mr Rich submitted that if the Tribunal was not persuaded to impose an order of conditions, any suspension imposed should be of as short a length as it deemed appropriate. He submitted that a review, in the case of an order of suspension, would not be necessary.

The Tribunal's Determination on Sanction

14. The decision as to the appropriate sanction, if any, to impose in this case is a matter for the Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken the SG into account and borne in mind the overarching objective.

15. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and the public interest and that sanctions are not imposed to punish or discipline doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Shunmugam's interests with the public interest.

16. The Tribunal had regard to the cases of *Fleischmann* and *Naveed Patel*. The Tribunal was mindful that it must impose a sanction which is just, proportionate and only that which is necessary to maintain public confidence.

Aggravating and Mitigating Factors

17. The Tribunal has already set out its decision on the facts and impairment and took these into account during its deliberations on sanction. Before considering what action, if any, to take in respect of Dr Shunmugam's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

18. The Tribunal identified the following aggravating factors relating to the circumstances of Dr Shunmugam's conviction:

- He showed extremely poor judgement in consuming a significant amount of strong alcohol in a short period of time in the mid-afternoon whilst sitting in his car in a built-up area;
- Whilst driving the mile home drunk, he was involved in a collision with another vehicle that was carrying passengers;
- His actions posed a clear risk of injury and damage to property.

19. The Tribunal identified the mitigating factors to be:

- Dr Shunmugam made full admissions to the police, at the scene on 4 October 2023 and subsequently pleaded guilty at Magistrates' Court;
- He referred himself to the GMC the day after he was charged on 5 October 2023;
- He has expressed genuine remorse and regret throughout and has acknowledged the seriousness of his actions and the harm he could have caused to others;
- He has shown insight and taken steps to remediate, including completing a course on drink driving and its impact;
- Dr Shunmugam's conviction for a serious offence was an isolated incident and occurred at a time of stressful personal and professional circumstances;
- Dr Shunmugam has no previous similar convictions and there is no evidence of repetition;
- He is a competent clinician who is highly regarded by his colleagues who are aware of his conviction, as confirmed by positive testimonials provided.

20. The Tribunal considered the aggravating and mitigating factors throughout its deliberations on what the appropriate and proportionate sanction to impose would be, if any. The Tribunal considered each sanction in ascending order of severity, starting with the least restrictive.

No action

21. The Tribunal first considered whether to conclude the case by taking no action. It accepted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that there are no exceptional circumstances in this case and that, given the seriousness of its findings, it would not be sufficient, proportionate, or in the public interest to conclude this case by taking no action.

Conditions

22. The Tribunal next considered whether to impose conditions on Dr Shunmugam's registration. It had been invited to impose an order of conditions by Mr Rich. He suggested that the order include a supervision condition and a condition that required Dr Shunmugam to undertake unpaid clinical work.

23. The Tribunal had regard to paragraphs 81 to 90 of the SG. It accepted that the SG provides guidance and is not exhaustive in setting out the cases in which conditions might be most appropriate and workable. However, the Tribunal was mindful that paragraph 81 of the SG sets out cases in which conditions are most likely to be appropriate:

81. Conditions might be most appropriate in cases:

a. involving the doctor's health

b. involving issues around the doctor's performance

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

d. where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.

24. Dr Shunmugam's case did not fall within paragraph 81 of the SG. No concerns had been raised about his clinical practice. The Tribunal accepted that Dr Shunmugam had demonstrated a clear willingness to comply with any conditions imposed, and had suggested his own, including volunteering to complete unpaid clinical work.

25. However, taking into account the relevant paragraphs of the SG and being mindful of the purpose of imposing a sanction, the Tribunal determined that an order of conditions would not sufficiently mark the seriousness with which it viewed Dr Shunmugam's conviction for driving whilst over the prescribed limit.

Suspension

26. The Tribunal went on to consider whether to impose a period of suspension on Dr Shunmugam's registration. The Tribunal accepted that suspension does have a deterrent effect and could be used to send a signal to Dr Shunmugam, the profession, and the public about what is regarded as behaviour unbecoming a registered doctor. It bore in mind that suspension from the medical register 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.

27. The Tribunal had regard to paragraphs 92, 93 and 97a, f, and g of the SG:

92. Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).

93. Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions (see paragraphs 24–49).

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

a. A serious 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...

f. No evidence of repetition of similar behaviour since incident.

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

28. The Tribunal found that Dr Shunmugam's conviction for a criminal offence amounted to a serious departure from GMP. It took into account the significant mitigation, including Dr Shunmugam's immediate admissions of wrongdoing, his remorse, insight, remediation and his willingness to make changes to his life to further reduce any risk of repetition. The Tribunal determined that a sanction less than suspension would not uphold the overarching objective or mark the seriousness of Dr Shunmugam's conviction.

29. The Tribunal concluded that Dr Shunmugam's breaches of GMP were not, given his insight, remediation and the other mitigating factors present, so serious as to constitute fundamental incompatibility with continued registration. The Tribunal concluded, considering the facts and context of the case, as well as Dr Shunmugam's good standing as a clinician, that to erase Dr Shunmugam from the medical register would be disproportionate.

30. Having considered the sanctions in ascending order of restrictiveness and having determined to suspend Dr Shunmugam's registration, the Tribunal went on to consider the length of the period of suspension for him. The Tribunal determined to suspend Dr Shunmugam's registration from the medical register for a period of three months. It was satisfied that such a period appropriately marked the seriousness of Dr Shunmugam's conviction for a criminal offence and upheld the overarching objective 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.

31. The Tribunal bore in mind that it was imposing a suspension to mark the seriousness of Dr Shunmugam's conviction. It was of the view that Dr Shunmugam had already done all he could to reflect on, develop insight into and remediate his conviction. There were no concerns about Dr Shunmugam's clinical practice. He is a competent clinician who poses no risk to patients. As such, the Tribunal determined that it was not necessary to direct a review hearing given the specific circumstances of this case.

Determination on Immediate Order - 23/05/2024

1. Having determined to suspend Dr Shunmugam's registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order of suspension.

Submissions

2. On behalf of the GMC, Ms Tighe submitted that an immediate order was not necessary in this case.

3. On behalf of Dr Shunmugam, Mr Rich agreed that an immediate order was not required.

The Tribunal's Determination

4. The Tribunal had regard to paragraphs 172 to 178 of the SG. It took account of the guidance, the submissions of both parties and the specific basis upon which the Tribunal reached its determination on sanction. In particular it had considered paragraphs 172 and 173 of the SG:

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.

5. The Tribunal determined that the substantive order upholds the overarching objective and that in the absence of any concerns about patient safety, an immediate order would not be necessary in this case.
6. The Tribunal therefore determined not to impose an immediate order of suspension on Dr Shunmugam's registration.
7. This means that Dr Shunmugam's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served, unless he lodges an appeal. If Dr Shunmugam does lodge an appeal he will remain free to practise unrestricted until the outcome of any appeal is known.
8. There is no interim order to revoke
9. That concludes the case.