PUBLIC RECORD

Dates: 01/05/2024 - 08/05/2024

Medical Practitioner's name:	Dr Simon MORAN
GMC reference number:	3115204
Primary medical qualification:	MB BS 1986 University of London

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

Summary of outcome

Suspension, 12 months
Review hearing directed

Tribunal:

Legally Qualified Chair	Mrs Emma Gilberthorpe
Lay Tribunal Member:	Mr Vince Cullen
Medical Tribunal Member:	Dr Pavan Rao

Tribunal Clerk:	Mr Sewa Singh

Attendance and Representation:

Medical Practitioner:	Not present, not represented
Medical Practitioner's Representative:	None
GMC Representative:	Mr Alan Taylor, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 02/05/2024

1. Throughout the decision-making process the Tribunal bore in mind the statutory overarching objective as set out in s1 of the Medical Act 1983 (the 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.

Background

2. Dr Moran qualified in 1986 at the University of London. In 1991, he became a partner at the Pelham Medical Practice ('the Practice') in Gravesend, Kent.

3. The Allegation against Dr Moran is that prior to his retirement from the Practice, Dr Moran took one or more prescription pads which were personalised to Dr A at the Practice. It is alleged that Dr Moran subsequently and inappropriately prescribed medications to himself, as set out in schedule 1; and also prescribed medications, as set out in schedule 2, to a person with whom he had a close relationship in a non-emergency situation, in both instances using and signing the prescriptions pad personalised to Dr A. It is alleged that Dr Moran knew that the prescription pad did not belong to him, that he should not have used it to write prescriptions, that Dr A did not sign the prescriptions and that Dr A had not given Dr Moran permission to use or sign the prescriptions in his name. It is alleged that Dr Moran's actions were dishonest by reason of misconduct.

4. These matters came to the attention of the GMC following an investigation by the NHS Counter Fraud Authority (NHSCFA).

The Outcome of Applications Made during the Facts Stage

5. The Tribunal granted an application, made by Mr Alan Taylor, Counsel for the GMC, pursuant to Rule 40 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to proceed in Dr Moran's absence. The Tribunal's full decision on the application is included at Annex A.

The Allegation and the Doctor's Response

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

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

1. Prior to your retirement from Pelham Medical Practice ('the Practice') you took one or more prescription pads which were personalised to Dr A.
To be determined

2. On one or more occasion, following your retirement from the Practice you:

a. inappropriately prescribed medications to yourself, which included the prescription set out in confidential schedule 1;
To be determined

b. inappropriately prescribed to a person with whom you had a close personal relationship in a non-emergency situation, which included the prescription set out in confidential schedule 2;
To be determined

c. presented the prescriptions at a pharmacy with a view to the medications as described in confidential schedules 1 & 2 being dispensed to you.
To be determined

3. When issuing and presenting the prescriptions as set out in paragraph 2 you:

a. inappropriately used a prescription pad that was issued to a colleague, Dr A;
To be determined

b. signed the prescriptions in the name of Dr A.
To be determined

4. When you acted in the manner set out in paragraph 2, you knew that:

a. the prescription pad referred to in paragraph 3.a. did not belong to you;
To be determined

b. you should not have been using the prescription pad to write prescriptions;
To be determined

c. Dr A did not sign the prescriptions;
To be determined

d. Dr A did not give you permission to use or sign the prescriptions in his name.
To be determined

5. Your actions as set out in paragraph 3 were dishonest by reason of paragraph 4.
To be determined

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

The Admitted Facts

7. No facts were admitted at the hearing as Dr Moran was not present or represented.

The Facts to be Determined

8. In light of the above, the Tribunal had to make a determination in relation to each of the disputed paragraphs of the Allegation, as set out above.

Factual Witness Evidence

9. The Tribunal received on behalf of the GMC the witness statements from:

- Dr A, retired GP from the Practice – witness statement dated 3 November 2023;
- Ms B, locum Pharmacist – witness statement dated 3 January 2024.

10. Neither were called to give oral evidence.

Documentary Evidence

11. The Tribunal had regard to the documentary evidence provided by the GMC. This included but was not limited to:

The prescriptions written by Dr Moran in Dr A's name;

- Dr A's undated witness statement provided to the NHSCFA;

- Ms B's witness statement provided to the NHSCFA, dated 15 November 2021;
- Dr Moran's prepared statement provided to the NHSCFA, dated 8 September 2022;
- An email from Dr Moran to the GMC, dated 28 March 2024.

The Tribunal's Approach

12. The Tribunal accepted the Legally Qualified Chair's advice.

13. In reaching its decision on facts, the Tribunal bore in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Moran does not need to prove anything. The standard of proof applied is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

14. The Tribunal reminded itself that it must form its own judgment about the evidence presented to it.

15. The Tribunal noted the test for dishonesty as set out in *Ivey v Genting Casinos (UK) Limited (t/as Crockfords Club) [2017] UKSC 67* ('Ivey') in that it must,

> *'…first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts…[and] once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he had done is, by those standards, dishonest'*

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1(a)

> 1. Prior to your retirement from Pelham Medical Practice ('the Practice') you took one or more prescription pads which were personalised to Dr A.

17. The Tribunal had regard to Dr A's undated statement provided to the NHSCFA. In this Dr A stated:

> *'With regard to how prescription pads are issued to doctors I can say that a number of personalised prescription pads, would be ordered for each doctor and these would be issued to the doctors concerned, as required. I do recall that Dr MORAN covered some clinics and appointments using the consulting room that I mainly used and it is entirely possible that he would have had access to prescriptions that were personalised to me, although I believe that he also had access to his own personalised prescription pads. I*

can only surmise how he may have accessed these prescriptions and do not know for sure how this happened.'

18. Dr Moran has not provided any explanation as to how he came to have in his possession a prescription pad personalised to Dr A, though he has accepted that he did so.

19. The Tribunal considered that, based on the evidence before it, and on the balance of probabilities, they were satisfied that Dr Moran obtained the prescription pads personalised to Dr A during his employment at the Practice. It determined, therefore, that prior to his retirement, Dr Moran took one or more prescription pads which were personalised to Dr A. In the circumstances, the Tribunal found paragraph 1 of the Allegation proved.

Paragraph 2a

2. On one or more occasion, following your retirement from the Practice you:

a. inappropriately prescribed medications to yourself, which included the prescription set out in confidential schedule 1;

20. This paragraph alleges that Dr Moran inappropriately prescribed medications to himself, which included the prescription set out in confidential schedule 1. The Tribunal first considered whether Dr Moran had prescribed medications to himself as alleged.

21. The Tribunal was provided with a copy of the prescription, dated 21 June 2021. It noted that in the top right corner, where the patient's details are set out, it stated the name 'Simon Moran', and the prescription was for *'XXX'*.

22. In his prepared statement, dated 8 September 2022, Dr Moran stated:

'I accept [redacted] that on occasions I prescribed these particular XXX to myself.'

23. In his email, dated 28 March 2024, Dr Moran stated:

'I confirm I issued the 2 prescriptions on 21.6.21 and that I took my prescription to the pharmacy to be dispensed.'

24. Based on the evidence before it, the Tribunal determined that Dr Moran prescribed medications for himself, as alleged.

25. The Tribunal then went on to consider if and why Dr Moran's actions were inappropriate.

26. It took into account that Dr A had retired from the Practice in August 2020 and his name was removed from the General Medical Practitioners, GMC register in May 2021. The Tribunal noted that Dr Moran nor XXX were ever registered as patients at the Practice. At the

time of the alleged events, Dr Moran had left the Practice. Therefore, he should not have been in possession of nor have used a prescription pad belonging to the Practice. Dr Moran accepted in his prepared statement, dated 8 September 2022, that it was wrong for him to have prescribed as alleged.

27. The Tribunal had regard to paragraph 16(g) of Good Medical Practice ('GMP') (2013 version). This states:

> *'16 In providing clinical care you must:*
>
> *g wherever possible, avoid providing medical care to yourself or anyone with whom you have a close personal relationship.'*

28. Taking account of all of the above, the Tribunal concluded that it was inappropriate for Dr Moran to have prescribed for himself as alleged. It therefore found paragraph 2a of the Allegation proved.

Paragraph 2(b)

> 2. On one or more occasion, following your retirement from the Practice you:
>
> b. inappropriately prescribed to a person with whom you had a close personal relationship in a non-emergency situation, which included the prescription set out in confidential schedule 2;

29. This paragraph alleges that Dr Moran inappropriately prescribed medications to a person with whom you had a close personal relationship in a non-emergency situation, which included the prescription set out in confidential schedule 2. The Tribunal first considered whether Dr Moran had prescribed medications to a person with whom he had a close personal relationship, as alleged.

30. The Tribunal was provided with a copy of the prescription, dated 21 June 2021. It noted that in the top right corner, where the patient's details are set out, it stated the name 'Ms D, and the prescription was for:

> *'XXX'*

31. The Tribunal noted Dr Moran's prepared statement, dated 8 September 2022, which provided:

> *'I have also prescribed XXX antibiotics on a few occasions using a prescription in another GP's name.'*
>
> and

'I also accept from the prescription shown to me dated 21.6.21, that I prescribed the XXX.'

32. The Tribunal also had regard to Dr Moran's email, dated 28 March 2024, in which he made reference to writing 'prescriptions' in the plural. This would include the prescription for XXX as well as for himself. In the circumstances, the Tribunal determined that Dr Moran prescribed to a person with whom he had a close personal relationship, XXX.

33. In relation to whether Dr Moran's actions were inappropriate, the Tribunal had regard to its findings at paragraph 26 above, noting that Dr Moran had retired from the Practice at the time of writing the prescription for XXX. The medications he prescribed were for a non-emergency situation and Dr Moran accepted that it was wrong for him to have prescribed.

34. Having regard to paragraph 16(g) of GMP, as set out above, the Tribunal determined that it was inappropriate for Dr Moran to have prescribed as alleged in this paragraph of the Allegation. Therefore, based on the evidence before it, the Tribunal found paragraph 2b of the Allegation proved.

Paragraph 2(c)

2. On one or more occasion, following your retirement from the Practice you:

c. presented the prescriptions at a pharmacy with a view to the medications as described in confidential schedules 1 & 2 being dispensed to you.

35. The Tribunal had regard to Dr Moran's email of 28 March 2024 in which he stated:

'I confirm I issued the 2 prescriptions on 21.6.21 and that I took my prescription to the pharmacy to be dispensed.'

36. The Tribunal noted that although Dr Moran makes reference to the issuing of two prescriptions, he only refers to taking one prescription to the Pharmacy to be dispensed. The Tribunal had regard to Ms B's statement, dated 3 January 2024, which states at paragraph 2:

'….I am making this statement to confirm when Dr Moran came into XXX Pharmacy ('the Pharmacy') on 21 June 2021 with a number of green handwritten FP10 prescriptions, to be issued, in the names of Simon Moran and Ms D.'

37. From the evidence before it, the Tribunal was satisfied that Dr Moran presented two prescriptions at the Pharmacy with a view to the medications as described in the confidential schedules 1 & 2 being dispensed to him.

38. The Tribunal therefore found paragraph 2c of the Allegation proved.

Paragraph 3(a)

3. When issuing and presenting the prescriptions as set out in paragraph 2 you:

a. inappropriately used a prescription pad that was issued to a colleague, Dr A;

39. The Tribunal again had regard to Dr Moran's prepared statement, dated 8 September 2022, in which he stated *'I accept my wrongdoing'* and *'I accept it was wrong of me to use another GP's prescription pad.'* and *'I accept I should not have done so as with my own prescriptions, the signature on the prescriptions would not have been of the GP whose prescription pad I used.'*

40. In his email, dated 28 March 2024, Dr Moran stated:

'I confirm I issued the 2 prescriptions on 21.6.21 and that I took my prescription to the pharmacy to be dispensed.'

41. From the evidence before it, the Tribunal was satisfied that Dr Moran used a prescription pad that was issued to Dr A.

42. In relation to whether Dr Moran inappropriately used a prescription pad issued to his colleague, Dr A, the Tribunal had regard to its findings set out at paragraph 26 above. For these reasons, the Tribunal determined that Dr Moran's actions were inappropriate. It therefore found paragraph 3a of the Allegation proved.

Paragraph 3b

3. When issuing and presenting the prescriptions as set out in paragraph 2 you:

b. signed the prescriptions in the name of Dr A.

43. The Tribunal had regard to the prescriptions which Dr Moran issued on 21 June 2021. It noted that in the box entitled 'Signature of Prescriber', there is what appears to be un-recognisable signature.

44. Ms B in her witness statement of 3 January 2023 at paragraph 7, stated:

'I liaised with the surgery group practice manager Mr C, and scanned the scripts to them for verification. He also confirmed the details as in Paragraph 6 and that the signature was not that of Dr A. The signature on the front of script appeared to match the collector signature on the back of the script, arousing further suspicion of invalidity….'

45. Ms B also states in her witness statement provided for NHSCFA, dated 15 November 2021:

> *'Mr C confirmed, that the prescription signatures were NOT that of Dr A…' and ' Mr C said, that the signatures were similar to that of Dr Moran, but without the S...'*

46. The Tribunal noted Dr A's signature as it appears in his statement of 3 November 2023; it appears to have no resemblance with the signature on the prescription, dated 21 June 2021. The Tribunal considered that although Dr Moran had issued and signed the prescriptions for himself and XXX and did so knowing that it was wrong to do so, he did not sign the prescription using the name of Dr A.

47. The Tribunal therefore concluded that Dr Moran did not sign the prescriptions using the name of Dr A. In the circumstances, it found paragraph 3b of the Allegation not proved.

Paragraph 4a

> 4. When you acted in the manner set out in paragraph 2, you knew that:
>
> a. the prescription pad referred to in paragraph 3.a. did not belong to you;

48. The Tribunal was mindful of Dr Moran's prepared statement, dated 8 September 2022, in which he stated:

> *'There were occasions when I signed off prescriptions using another Dr's prescription pad.'*
>
> and
>
> *'I accept my wrongdoing'* and *'I accept it was wrong of me to use another GP's prescription pad.'* and *'I accept I should not have done so as with my own prescriptions, the signature on the prescriptions would not have been of the GP whose prescription pad I used.'*

49. There is a clear acknowledgment and acceptance by Dr Moran that he knew the prescription pad he used when he signed the prescriptions, as alleged, did not belong to him.

50. Based on the evidence before it, the Tribunal therefore found paragraph 4a of the Allegation proved.

Paragraph 4b

> 4. When you acted in the manner set out in paragraph 2, you knew that:

b. you should not have been using the prescription pad to write prescriptions;

51. The Tribunal had regard to its findings set out at paragraph 26 above. It took into account Dr Moran's own admission in his prepared statement of 8 September 2022 in which he stated:

> *'I accept my wrongdoing'* and *'I accept it was wrong of me to use another GP's prescription pad.'* and *'I accept I should not have done so as with my own prescriptions, the signature on the prescriptions would not have been of the GP whose prescription pad I used.'*

52. The Tribunal considered that there was a clear acknowledgment from Dr Moran that he knew he should not have been using the prescription pad to write prescriptions. It therefore found paragraph 4b of the Allegation proved.

Paragraph 4c

4. When you acted in the manner set out in paragraph 2, you knew that:

c. Dr A did not sign the prescriptions;

53. The Tribunal had regard to its findings set out at paragraph 26 above. It is a matter of fact that Dr A did not sign the prescriptions. It took into account Dr A's statement to the NHSCFA in which he states *'I have been shown a copy of the prescriptions and on looking at the signature on the front of the prescription I can say that this is not my signature nor is it my handwriting.'*

54. In paragraphs 4 and 8 of his statement to the GMC, dated 3 November 2023, Dr A stated:

> *'I confirm that I did not write these prescriptions.'*
>
> and
>
> *'I couldn't verify the person who signed the prescription pads and I couldn't remember Dr Moran's signature but it is definitely not my signature.'*

55. The Tribunal also took account of Dr Moran's admission to writing the prescriptions as set out in his prepared statement dated 8 September 2022. The Tribunal therefore found paragraph 4c of the Allegation proved.

Paragraph 4d

4. When you acted in the manner set out in paragraph 2, you knew that:

d. Dr A did not give you permission to use or sign the prescriptions in his name.

56. The Tribunal has already found that Dr A had not given permission to Dr Moran to use the prescription pad. Dr A retired from the Practice in August 2020 and his name was removed from the General Medical Practitioners, GMC register in May 2021.

57. At paragraph 4 of his statement to the GMC, Dr A stated *'I told the Practice to remove my prescription pad when I retired in January 2020.'* [This should state 2021]

58. The Tribunal had regard to its findings set out at paragraph 26 above. For the same reasons, and in view of the evidence before it, the Tribunal was satisfied that Dr A did not give Dr Moran permission to use or sign the prescriptions in his name. The Tribunal therefore found paragraph 4d of the Allegation proved.

Paragraph 5

5. Your actions as set out in paragraph 3 were dishonest by reason of paragraph 4.

59. The Tribunal had regard to the principles set out in *Ivey v Genting Casinos*.

60. The Tribunal had previously found that Dr A did not give Dr Moran permission to use the prescription pad, or to sign his name. It also found, for the reasons set out at paragraph 26, that it was inappropriate for Dr Moran to have prescribed for himself and XXX. The Tribunal also found that Dr Moran obtained Dr A's personalised prescription pads during his employment at the Practice. It is clear that he retained and used Dr A's prescription pad after Dr A had retired, and Dr Moran himself had left the Practice.

61. The Tribunal evaluated Dr Moran's state of knowledge and belief. It took into account that Dr Moran chose to use the prescription pad personalised to Dr A so as not to arouse suspicion as the surnames of the patients (himself and XXX) and the prescriber (himself) would be the same.

62. It noted that in her statement to the GMC at paragraph 4, Ms B wrote:

'Initially I couldn't read the handwriting on his, Simon Moran script, so I told him I may need to call the surgery they were prescribed from to check. He was irritated and said that he'd had this prescription before so I wasn't alerted initially to any concerns.'

63. The Tribunal considered that Dr Moran had pre-meditated his actions. He became agitated because he knew that he should not have been using Dr A's prescription pad nor be

prescribing for himself and XXX. By his own admission, Dr Moran accepted that what he did was wrong.

64. In the circumstances, the Tribunal concluded that Dr Moran's actions, as set out in paragraph 3 were dishonest by reason of paragraph 4. It therefore found paragraph 5 of the Allegation proved.

The Tribunal's Overall Determination on the Facts

65. The Tribunal has determined the facts as follows:

1. Prior to your retirement from Pelham Medical Practice ('the Practice') you took one or more prescription pads which were personalised to Dr A.
Found proved

2. On one or more occasion, following your retirement from the Practice you:

   a. inappropriately prescribed medications to yourself, which included the prescription set out in confidential schedule 1;
   Found proved

   b. inappropriately prescribed to a person with whom you had a close personal relationship in a non-emergency situation, which included the prescription set out in confidential schedule 2;
   Found proved

   c. presented the prescriptions at a pharmacy with a view to the medications as described in confidential schedules 1 & 2 being dispensed to you.
   Found proved

3. When issuing and presenting the prescriptions as set out in paragraph 2 you:

   a. inappropriately used a prescription pad that was issued to a colleague, Dr A;
   Found proved

   b. signed the prescriptions in the name of Dr A.
   Found not proved

4. When you acted in the manner set out in paragraph 2, you knew that:

   a. the prescription pad referred to in paragraph 3.a. did not belong to you;
   Found proved

b. you should not have been using the prescription pad to write prescriptions;
Found proved

c. Dr A did not sign the prescriptions;
Found proved

d. Dr A did not give you permission to use or sign the prescriptions in his name.
Found proved

5. Your actions as set out in paragraph 3 were dishonest by reason of paragraph 4.
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**

Determination on Impairment - 03/05/2024

1. The Tribunal now had to decide, in accordance with Rule 17(2)(l) of the Rules, on the basis of the facts which it has found proved, whether Dr Moran's fitness to practise is impaired by reason of his misconduct.

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing. The Tribunal received no further evidence at this stage.

Submissions for the GMC

3. Mr Taylor reminded the Tribunal of the overarching objective and submitted that the second and third limbs of this were engaged in this case. He reminded the Tribunal that the question of whether Dr Moran's actions amounted to misconduct and then whether his fitness to practise was impaired as a result of the misconduct was a matter for the Tribunal exercising its own judgement. Mr Taylor also reminded the Tribunal that impairment is a two-stage process and that it must first consider whether Dr Moran's actions amounted to serious misconduct before considering impairment.

4. Mr Taylor referred the Tribunal to relevant case law and to the relevant legal principles when considering misconduct and impairment. He submitted that Dr Moran's actions had breached paragraphs of Good Medical Practice (GMP) (2013 version) namely, paragraphs 1, 16(g), 65 and 71. Mr Taylor submitted that Dr Moran's misconduct occurred in the exercise of

his professional practice as a GP during which he obtained Dr A's personalised prescription pad. It is in the context of his professional role as a doctor that he knew how to complete prescriptions. Mr Taylor added that Dr Moran's conduct was dishonourable, bringing disgrace upon himself and thereby prejudicing the reputation of the medical profession. He said that Dr Moran had not only prescribed for himself but also for XXX and therefore had clearly breached paragraph 16(g) of GMP.

5. Mr Taylor submitted that this was not an isolated incident as by Dr Moran's own admission, in his statement for the NHSCFA, he wrote that he had also completed prescriptions on other occasions for himself and XXX, such as antibiotics, using another doctor's prescription pad and their name. Further, Mr Taylor added that Dr Moran also admitted that he knew it was wrong for him to have used and completed prescriptions in the name of another doctor.

6. Mr Taylor reminded the Tribunal of its findings in its determination on the facts that Dr Moran's actions were premeditated, and he chose to use the prescription pad personalised to Dr A so as not to arouse suspicion. He submitted that this showed a clear intent to deceive, and such conduct would be considered deplorable by fellow professionals.

7. Mr Taylor submitted that Dr Moran's actions in prescribing for himself and XXX in itself would constitute serious professional misconduct. This was aggravated by the fact that he had completed and presented the prescriptions purporting them to have been completed by Dr A in an attempt to deceive the dispensing pharmacist. Taken individually and cumulatively, Mr Taylor submitted that Dr Moran's actions amounted to serious professional misconduct.

8. In relation to impairment, Mr Taylor reminded the Tribunal that dishonesty was difficult to remediate. He referred the Tribunal to Dame Janet Smith's Fifth Shipman Report adding that the second, third and fourth elements of that were engaged in this case. Mr Taylor acknowledged that Dr Moran had accepted his wrongdoing but submitted that this carried little weight on its own. Beyond his prepared statement to the NHSCFA, dated 8 September 2022, Dr Moran has not provided any explanation as to why he did what he did and why it was wrong, nor had he provided any evidence to demonstrate any steps he had taken to address his actions. Further, he has not provided any evidence to demonstrate his reflections on how his actions had brought the medical profession into disrepute, and how his actions impacted on the reputation of the medical profession and public confidence in the medical profession. Instead, in his prepared statement, he sought to justify his actions. Mr Taylor submitted that public confidence in the medical profession would be undermined if a finding of impairment were not made.

9. Mr Taylor submitted that Dr Moran's actions represented serious departures from the standards expected of doctors. He invited the Tribunal to find that Dr Moran's fitness to practise is impaired.

The Relevant Legal Principles

10. The Tribunal accepted the Legally Qualified Chair's advice on the approach to be taken in relation to impairment.

11. In approaching the decision, the Tribunal must be mindful of the two-stage process to be adopted: first whether the facts found proved amounted to misconduct which was serious; and secondly, whether the finding of serious misconduct should lead to a finding of impairment.

12. The Tribunal was mindful of the case of *Roylance v GMC (no2) (2000) 1 AC 311* in which 'misconduct' was defined as a:

> *'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances'*.

13. It was also mindful of the case of Cohen v GMC (2008) EWHC 581 in which the Court held that the task of the panel, in considering impairment, is to take account of the practitioner's misconduct and then consider it in light of all the other relevant factors known to them. The Court stated that it will be highly relevant in determining if fitness to practise is impaired to consider:

- whether the practitioner's misconduct is easily remediable;
- whether the misconduct has been remedied; and
- whether the misconduct is likely to be repeated.

14. The Tribunal must determine whether Dr Moran's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then, such as whether the matters are remediable, have been remedied and any likelihood of repetition. It should also consider whether a finding of impairment is warranted taking into account the wider public interest.

15. Whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

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

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

16. 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.

17. The Tribunal reminded itself of the overarching objective which is 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.

The Tribunal's Decision

Misconduct

18. The Tribunal first considered whether the facts found proved amounted to serious misconduct. The Tribunal had regard to the following paragraphs of GMP which it considered to be engaged in this case:

'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.

16 In providing clinical care you must:

g wherever possible, avoid providing medical care to yourself or anyone with whom you have a close personal relationship.

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

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

a. You must take reasonable steps to check the information is correct.
b. You must not deliberately leave out relevant information.'

19. The Tribunal considered that it was clear from the evidence before it that Dr Moran had departed from GMP. The Tribunal considered whether the departures from GMP were serious, and noted the use of the words 'you must' denotes an overriding duty or principle, as set in paragraph 5 of GMP.

20. The Tribunal reminded itself that Dr Moran obtained the prescription pad personalised to Dr A during his employment at the Practice. Following his departure from the Practice Dr Moran retained the prescription pad personalised to Dr A. Dr Moran went on to use the prescription pad personalised to Dr A to prescribe for himself and XXX. The Tribunal found that Dr Moran used the prescription pad in the name of Dr A so as not to arouse suspicion by the patients and prescriber having the same surname. The Tribunal found that Dr Moran did so in a premeditated manner in order to deceive. The Tribunal therefore concluded that Dr Moran had acted dishonestly.

21. The Tribunal found that there was a clear acknowledgment from Dr Moran that he knew the prescription pad he used did not belong to him. As set out in his prepared statement to the NHSCFA:

> *'I accept my wrongdoing' and 'I accept it was wrong of me to use another GP's prescription pad.' and 'I accept I should not have done so as with my own prescriptions, the signature on the prescriptions would not have been of the GP whose prescription pad I used.'*

22. In his prepared statement to the NHSCFA, dated 8 September 2022, Dr Moran admitted to having prescribed on more than one occasion for himself and XXX, stating *'I have also prescribed XXX antibiotics on a few occasions using a prescription in another GP's name.'* and in his email of 28 March 2024 *'I confirm I issued the 2 prescriptions on 21.6.21 and that I took my prescription to the pharmacy to be dispensed.'*

23. The Tribunal reminded itself as to why it had found Dr Moran's actions were inappropriate. It had regard to paragraph 26 of its determination on the facts, where it stated:

> *'….that Dr A had retired from the Practice in August 2020 and his name was removed from the General Medical Practitioners, GMC register in May 2021. The Tribunal noted that neither Dr Moran nor XXX were ever registered as patients at the Practice. At the time of the alleged events, Dr Moran had left the Practice. Therefore, he should not have been in possession of nor have used a prescription pad belonging to the Practice. Dr Moran accepted in his prepared statement, dated 8 September 2022, that it was wrong for him to have prescribed as alleged.'*

24. The Tribunal considered that being able to trust doctors and be confident in the information supplied by them is critical to both the medical profession and the public's confidence in the profession.

25. The Tribunal determined that Dr Moran's actions breached the paragraphs of GMP, as set out above. He completed the prescriptions in such a way as to purport them as being signed and issued by Dr A, and then presented them at the pharmacy. This was a deliberate act of dishonesty to deceive the pharmacist to obtain medication for himself and XXX. As acknowledged by Dr Moran himself, he had prescribed on other occasions for himself and XXX. The Tribunal determined therefore that this was not an isolated incident.

26. In light of the above, the Tribunal considered that other members of the profession would be very concerned by Dr Moran's actions. The Tribunal found that Dr Moran's actions brought the medical profession into disrepute, undermined public trust and confidence, and breached a fundamental tenet of the profession.

27. The Tribunal concluded, therefore, that Dr Moran's actions amounted to serious professional misconduct.

Impairment

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

29. The Tribunal had regard to the guidance provided by Dame Janet Smith in the *Fifth Shipman report* as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin.* The Tribunal considered the four elements of the guidance, as set out in paragraph 15 above, and was satisfied that the second, third and fourth elements were engaged. The Tribunal was mindful that dishonesty is difficult to remediate. Dr Moran acted dishonestly, and thereby breached a fundamental tenet of the profession. His dishonest actions had brought the medical profession into disrepute.

30. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal looked for evidence of remediation and insight, and the likelihood of repetition, bearing in mind at all times the need to uphold the three strands of the overarching statutory objective. The Tribunal was mindful that dishonesty is difficult to remediate but not impossible, and that in certain circumstances, it is remediable and can be remediated.

31. It took into account that Dr Moran accepted wrongdoing in his prepared statement to the NHSCFA, dated 8 September 2022, and that he should not have completed and issued the prescriptions for himself and XXX. However, beyond his prepared statement, the Tribunal has not been provided with any evidence of Dr Moran demonstrating an understanding of the nature and gravity of the Allegation, nor could it identify any indications of insight from the evidence before it. Neither was there any evidence of any steps taken by Dr Moran to remediate his misconduct. There was no evidence that Dr Moran understood the impact his dishonest actions had on the reputation of the medical profession or public confidence in the medical profession. It was therefore the Tribunal's view that Dr Moran had shown limited insight. In the absence of any other evidence, the Tribunal concluded that there remains a risk of Dr Moran repeating his misconduct in the future.

32. The Tribunal had determined that Dr Moran's misconduct was serious. By his own admission Dr Moran had prescribed on several occasions for himself and XXX. This was therefore not an isolated incident and involved repeated acts of dishonesty. The Tribunal was

satisfied that a member of the public, aware of the full facts of the case, would be concerned that a doctor had acted in such a way, and that a fellow professional would find Dr Moran's actions wholly unacceptable. The Tribunal was of the view that given the nature of the misconduct found, public confidence in the profession would be undermined if a finding of impairment was not made. A finding of impairment was needed to maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for the members of the profession.

33. The Tribunal therefore determined that Dr Moran's fitness to practise is impaired by reason of his misconduct.

Determination on Sanction - 08/05/2024

1. Having determined that Dr Moran's fitness to practise is impaired by reason of misconduct, the Tribunal now had 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, in reaching a decision on sanction. It had already determined that, having obtained the prescription pad personalised to Dr A, Dr Moran used it to prescribe for himself and XXX in the name of Dr A so as not to arouse suspicion. It also determined that Dr Moran did so in a premeditated manner in order to deceive and he had acted dishonestly. The Tribunal determined that Dr Moran's actions amounted to serious misconduct.

3. The Tribunal was not provided with any further evidence at this stage of the proceedings.

Submissions on Sanction

For the GMC

4. Mr Taylor submitted that the appropriate sanction is a period of suspension but acknowledged that this was a matter for the Tribunal based on its own independent judgment. He directed the Tribunal to the Sanctions Guidance (SG) (February 2024 version), and the overarching objective as set out in the Medical Act 1983. He submitted that the second and third limbs were engaged in this case. He reminded the Tribunal that, in considering the appropriate sanction, it must start with the least restrictive. Mr Taylor also reminded the Tribunal that it should make sure the sanction it imposed was appropriate and proportionate as the reputation of the profession as a whole was more important than the interests of any individual doctor. Mr Taylor referred the Tribunal to case law which he submitted was relevant.

5. Mr Taylor submitted that the Tribunal must consider the mitigating and aggravating factors in this case. In relation to the mitigating factors, Mr Taylor submitted that Dr Moran accepted his wrongdoing at the outset. Mr Taylor reminded the Tribunal that, whilst Dr Moran had explained in his statement to the NHSCFA, dated 8 September 2022, that he was under a lot of stress at the time of the events, he was not practising as a doctor having already retired. Mr Taylor added that Dr Moran's explanation of the difficulties he had in accessing medical care during the COVID pandemic could not be considered as a mitigating factor because there were many people who had difficulties accessing medical care and it did not result in them acting dishonestly. In the circumstances, Mr Taylor said that personal mitigation should be given limited weight. Mr Taylor also submitted that whilst Dr Moran is currently retired, he may still return to clinical practice in the future. He reminded the Tribunal that whilst Dr Moran admitted his wrongdoing, he did not admit dishonesty; he had no previous adverse history with the GMC; and there had been a lapse of time since the events.

6. In relation to aggravating factors, Mr Taylor referred the Tribunal to its findings as set out in paragraph 31 of its determination on impairment. He submitted that Dr Moran has provided no evidence of remediation notwithstanding his acceptance of wrongdoing, and there was no real expression of remorse beyond this. Mr Taylor said that there was no meaningful remorse or apology from Dr Moran for his misconduct. Further, Mr Taylor submitted that Dr Moran has not provided any meaningful explanation as to why he acted in the way he did nor is there any evidence of insight into his actions on public confidence in the medical profession or the maintenance of proper professional standards and conduct for members of the profession. He reminded the Tribunal that it had determined that Dr Moran had limited insight.

7. Mr Taylor went on to say that Dr Moran abused his position as a GP to gain access to his colleague's prescription pad in order to prescribe for himself and XXX. He added that this was misconduct which was directly relevant to Dr Moran's professional role. Mr Taylor said that Dr Moran's actions were premeditated and repeated, and he reminded the Tribunal of its finding that there was a risk of Dr Moran repeating his misconduct. Mr Taylor submitted that Dr Moran's actions departed from a number of paragraphs in GMP.

8. Mr Taylor then went through the SG, considering the possible sanctions, starting with the least restrictive first. He referred the Tribunal to the relevant paragraphs and highlighted why taking no action or imposing conditions on Dr Moran's registration were not the appropriate response in this case.

9. Mr Taylor then took the Tribunal to paragraph 97 of the SG which he said indicated that suspension might be the appropriate sanction, particularly 97(a), (e), (f) and (g). He submitted that given the seriousness of Dr Moran's misconduct, suspension at the upper end was appropriate in this case. He said that suspension would have a deterrent effect and send a message to the doctor, the profession and the public about what was regarded as behaviour befitting of a registered doctor. Mr Taylor said that suspension would be the appropriate response to misconduct that was so serious, but which falls short of being

fundamentally incompatible with the doctor's continued registration on the medical register. Mr Taylor submitted that a period of suspension would give Dr Moran the opportunity to develop further insight into his misconduct. He also referred the Tribunal to paragraph 120 of the SG which deals with matters involving dishonesty.

10. Mr Taylor referred the Tribunal to paragraph 109 regarding erasure and submitted that paragraph 109(b) was engaged. He submitted that Dr Moran demonstrated a deliberate or reckless disregard for the principles set out in GMP.

11. In all the circumstances, Ms Taylor invited the Tribunal to impose a sanction of suspension at the upper end. He referred the Tribunal to the table in the SG which he said would be of assistance. Mr Taylor added that the Tribunal should direct a Review Hearing.

The relevant legal principles

12. The decision as to the appropriate sanction, if any, is a matter for this Tribunal exercising its own judgment. In reaching its decision, the Tribunal has taken account of the February 2024 version of the SG and the statutory overarching objective. It reminded itself that, where appropriate, it should only impose the minimum sanction necessary to protect the public and the public interest.

13. Throughout its deliberations the Tribunal has applied the principle of proportionality, balancing Dr Moran's interests with the public interest.

14. The Tribunal reminded itself of the requirement in SG to consider the least restrictive sanction first and then, if necessary, consider the other sanctions, taking into account the evidence and submissions that have been heard, including its earlier findings on fact and impairment.

15. The Tribunal accepted the Legally Qualified Chair's advice. It also considered and balanced any aggravating and mitigating factors in this case.

The Tribunal's Determination on Sanction

Aggravating and Mitigating Factors

16. In reaching its decision, the Tribunal considered the mitigating factors (paragraphs 24 – 49 of SG) and the aggravating factors (paragraphs 50 – 60 of SG) in this case.

Mitigating

- Dr Moran demonstrated some insight into his misconduct however this was limited:
  - He accepted his wrongdoing at the outset in his statement to the NHSCFA, dated 8 September 2022;

  - He accepted his wrongdoing in his email dated 28 March 2024;
- He has no previous adverse history with the GMC;
- There was no evidence that Dr Moran had repeated his misconduct since these events;
- No patients came to any harm;
- He showed some expressions of remorse and regret in that he acknowledged in his statement to the NHSCFA, dated 8 September 2022, that he should have behaved differently.

Aggravating

- Dr Moran intentionally used the prescription pad personalised to Dr A so as not to arouse suspicion;
- He purposefully used Dr A's prescription pad to deceive the pharmacist into dispensing medication;
- He acted dishonestly and his dishonest actions, by his own admission, were repeated.

17. The Tribunal bore in mind and balanced the aggravating and mitigating factors throughout its deliberations as regards the appropriate and proportionate sanction.

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

No action

19. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Moran's case, the Tribunal first considered whether to conclude the case by taking no action. The Tribunal considered the oral submissions made by Mr Taylor. It also considered paragraphs 68-70 of the SG which highlight that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

20. The Tribunal determined that, given the seriousness of the facts found proved, and in the absence of any exceptional circumstances in this case, taking no action would be neither appropriate, proportionate nor in the public interest.

Undertakings

21. No undertakings were submitted to the Tribunal.

Conditions

22. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Moran's registration.

23. The Tribunal took account of paragraph 80 of the SG which highlights that, in many cases, the purpose of conditions is to help the doctor remedy any deficiencies in their practice, while protecting the public. Further, the Tribunal noted paragraph 81 of SG which confirms that conditions might be most appropriate in cases involving issues around the doctor's performance or where there is evidence of shortcomings in areas of the doctor's practice.

24. The Tribunal also considered paragraph 82 of SG which advises that:

> *'82 Conditions are likely to be workable where:*
>
> *a. the doctor has insight;*
> *b. a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings;*
> *c. the Tribunal is satisfied that the doctor will comply with them;*
> *d. the doctor has the potential to respond positively to remediation or retraining or to their work being supervised.'*

25. It also had regard to paragraph 85, which states:

> *'85 Conditions should be appropriate, proportionate, workable and measurable.'*

26. The Tribunal reminded itself that it is not concerned with Dr Moran's clinical performance but with his dishonest conduct which was serious.

27. The Tribunal concluded that conditions would not be a sufficient response given the seriousness of Dr Moran's misconduct and this was reinforced by its conclusions concerning Dr Moran's limited insight into his wrongdoing. The Tribunal therefore determined that conditions would not be appropriate in this case.

Suspension

28. The Tribunal then went on to consider whether imposing a period of suspension on Dr Moran's registration would be sufficient to satisfy the statutory overarching objective.

29. The Tribunal took account of the SG in relation to suspension, including particularly paragraphs 91, 92 and 93. These 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 (see paragraphs 24–49).'

30. The Tribunal considered what factors, if any, indicated that suspension was the appropriate and proportionate sanction. It noted paragraph 97 and determined that sub-paragraphs (a), (e), (f) and (g) were engaged. These state:

'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.

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

f No evidence of repetition of similar behaviour since incident.

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

31. The Tribunal determined at the impairment stage that Dr Moran's actions were a serious departure from GMP. His actions breached paragraphs 1, 16(g) and 71 of GMP as outlined by Mr Taylor, and also paragraph 65 which states that '*You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'*

32. The Tribunal took into account that Dr Moran had accepted his wrongdoing very early on in the process. In his statement to the NHSCFA, dated 8 September 2022, he stated *'I accept my wrongdoing'* and *'I accept it was wrong of me to use another GP's prescription pad.'* Further, prior to the commencement of this hearing, in his email dated 28 March 2024, Dr Moran stated *'I confirm I issued the 2 prescriptions on 21.6.21 and that I took my prescription to the pharmacy to be dispensed.'* The Tribunal found that he has demonstrated some, albeit limited, insight.

33. The Tribunal was concerned that Dr Moran had not provided any evidence of the steps he had taken to address the concerns identified in this case, or to remediate his misconduct. In his statement to the NHSCFA, dated 8 September 2022, Dr Moran acknowledged that he should have behaved differently. He voluntarily disclosed that he had prescribed for himself and XXX on several occasions using prescription pads in the name of other GP's. The Tribunal was encouraged that this demonstrated limited insight, however Dr Moran has not provided any evidence to demonstrate that he has understood the impact his actions have had or could have had on the reputation of the medical profession or public confidence in the medical profession. The Tribunal found for these reasons, amongst others, in its determination on impairment, that there was a risk of Dr Moran repeating his misconduct. It noted however, that there was no evidence to suggest that Dr Moran has acted in this way since the events. The Tribunal found whilst there was a risk of Dr Moran repeating his behaviour, the risk was not significant.

34. For the above reasons, the Tribunal concluded that a period of suspension would be an appropriate and proportionate sanction in this case. It would give Dr Moran the opportunity to develop further insight into the seriousness of his misconduct and to complete remediation.

35. The Tribunal also concluded that suspension would properly mark the seriousness with which it viewed Dr Moran's conduct. A period of suspension would send out a clear message to the public, the medical profession and Dr Moran that this type of behaviour is not acceptable. Further, a period of suspension would appropriately protect the second and third limbs of the statutory overarching objective – to maintain public confidence in the medical profession and to maintain and uphold proper professional standards in the medical profession.

Erasure

36. In view of the seriousness of Dr Moran's misconduct, the Tribunal also carefully considered whether erasure would be an appropriate sanction. The Tribunal considered paragraphs 107 – 109 of the SG, particularly 109 (b) and (h), which state:

> *'109 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.*
>
> *h Dishonesty, especially where persistent and/or covered up…'*

37. Dr Moran's behaviour showed a deliberate disregard for the principles set out in GMP. The Tribunal considered that Dr Moran's misconduct involved prescribing for himself and XXX, no patients were involved and therefore patient safety was not compromised. Further, Dr Moran accepted his wrongdoing at an early stage in the NHSCFA investigation and

did not seek to cover up his actions, as set out in his statement of 8 September 2022. Whilst Dr Moran's actions were serious, and departed from paragraphs of GMP, the Tribunal was of the view that his actions were not fundamentally incompatible with his continued registration on the medical register. The Tribunal took into account the limited insight he had shown into his actions, and his acceptance of wrongdoing. The Tribunal determined, in the circumstances, that a period of suspension was the appropriate and proportionate sanction and would allow him to develop further insight into his actions.

38. The Tribunal was satisfied that a period of suspension was the appropriate and proportionate sanction in this case.

Length of suspension

39. In determining the length of the suspension, the Tribunal had regard to paragraphs 99 – 102 of the SG.

40. The Tribunal considered the seriousness of Dr Moran's misconduct and had regard to the matters set out in the table following paragraph 102 within the SG which deals with the factors to be taken into account when determining the length of a suspension. In light of its previous findings, it considered the following to be relevant factors:

- Dr Moran's actions were a serious departure from the principles of GMP;
- His actions risked public confidence;
- His significant acts of dishonesty.

41. When considering the question of proportionality, the Tribunal considered that the length of suspension should recognise the seriousness of Dr Moran's misconduct and be sufficient to maintain public confidence and uphold proper professional standards of behaviour. It noted Mr Taylor's submission that the period of suspension should be at the upper end between nine and twelve months.

42. Having considered all the evidence before it, including the seriousness of Dr Moran's misconduct, and that his insight is limited, the Tribunal determined that only the maximum period was appropriate and proportionate in this case. It therefore determined to suspend Dr Moran's registration for a period of twelve months.

Review

43. Paragraphs 163 and 164 of the SG deals with review hearings and states:

> *'163 It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.*

164 In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing.'

44. The Tribunal has determined to direct a review of Dr Moran'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 Moran to demonstrate evidence of his insight and remediation.

45. It therefore may assist the reviewing Tribunal to receive evidence of the following:

- Dr Moran's insight into the impact of his actions on the public interest and public confidence in the medical profession by reflection following the Tribunal's findings;
- Evidence from Dr Moran that he has maintained his medical knowledge and skills during the period of suspension.

Determination on Immediate Order - 08/05/2024

1. Having determined to suspend Dr Moran's registration for a period of twelve months, 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.

2. The Tribunal has borne in mind the test to be applied with regard to imposing an immediate order; it 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.

Submissions

3. On behalf of the GMC, Mr Taylor submitted that an immediate order is not necessary given that Dr Moran had retired and indicated in 2022 that he had no intention to return to clinical practice. Further, there is no evidence of repetition of the matters before the Tribunal. Mr Taylor said that an immediate order is not needed to protect the public. In relation to the public interest, Mr Taylor submitted that the Tribunal had already addressed this in its determination on sanction, and its decision to suspend Dr Moran's registration for the maximum period of twelve months. He acknowledged, however, that it is a matter for the Tribunal. He confirmed there is no interim order to revoke.

The Tribunal's Determination

4. In reaching its decision, the Tribunal took into account the submissions made by Mr Taylor. It also considered the relevant paragraphs of the SG and exercised its own independent judgement. In particular, it took account of paragraphs 172, 173 and 178, which state:

'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.'

5. The Tribunal considered all the evidence adduced in this case, including its findings on facts, impairment and sanction. It took into account that there are no concerns regarding patient safety, Dr Moran is currently retired from clinical practice, and there is no evidence to suggest he has repeated his misconduct since these matters came to light. The Tribunal therefore determined that in all the circumstances of this case, an immediate order was not necessary to maintain public confidence in the medical profession or to uphold and maintain high standards in the medical profession.

6. This means that Dr Moran'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 Moran does lodge an appeal, he will remain free to practise unrestricted (subject to having a licence to practise) until the outcome of any appeal is known.

7. The Tribunal noted that there is no interim order to revoke.

8. That concludes the case.

ANNEX A - Service and Proceeding in Absence (Rule 40) – 08/05/2024

Service of Notice of the Hearing

1. Dr Moran is neither present nor represented at this hearing.

2. The Tribunal considered the submissions made by Mr Alan Taylor, Counsel, on behalf of the General Medical Council (GMC), that notification of this hearing has been properly served upon Dr Moran in accordance with Rule 40 of the General Medical Council ('GMC') ('Fitness to Practise') Rules Order of Council 2004 ('the Rules') and that the hearing should proceed in the doctor's absence.

3. Mr Taylor referred the Tribunal to the proof of service bundle which included a screenshot of the GMC database showing Dr Moran's registered address.

4. On 26 March 2024, the GMC sent the Rule 34(9) letter enclosing the Allegation against Dr Moran to him at his registered email address. This also included details of today's hearing. An automated delivery receipt was received from Microsoft Outlook stating *'Delivery to these recipients or groups is complete.'* This was also sent via post on 28 March 2024, again enclosing the Allegation, and the Witness Schedule.

5. The Tribunal noted that on 26 March 2024, the MPTS sent the Notice of Hearing (NoH) to Dr Moran at his registered email address. The NoH contained details of the date and time of the hearing and also stated that the hearing would be conducted virtually. It included details of the proceedings as required by the Rules. The NoH also advised Dr Moran that the Tribunal can hear and make a decision about his case in his absence under the relevant rule. This was also sent to Dr Moran on 28 March 2024 by post to his registered address.

6. The Tribunal noted that the Track and Trace delivery receipt showed the NoH and the Rule 34(9) letter were both delivered to Dr Moran on 2 April 2024 at 10:51 and signed for.

7. From the information before it, the Tribunal was satisfied that the NoH included details of today's hearing and that it had been served upon Dr Moran in accordance with Rule 40 of the Rules.

Proceeding in Absence

8. Having determined that the NoH has been properly served, the Tribunal went on to consider, under Rule 31, whether it should proceed with the hearing in Dr Moran's absence, as submitted by Mr Taylor.

9. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest.

10. The Tribunal noted the email from Dr Moran to the GMC, dated 19 March 2024, in which he stated *'I confirm I will not be attending the MPT hearing and will not be legally represented.'* This pre-dated the date of the NoH.

11. The Tribunal considered that it was clear from Dr Moran's email of 19 March 2024, that he was aware of today's hearing, and he had voluntarily absented himself from it. It noted that Dr Moran has made no request for an adjournment to enable him to attend on a later date. The Tribunal was satisfied, from the information before it, that an adjournment would not necessarily result in his participation at a hearing in the future.

12. Having considered all the information before it, the Tribunal was satisfied that Dr Moran's absence was voluntary, and given the seriousness of the issues raised in this case, that it was appropriate to proceed with the case in Dr Moran's absence. It concluded that the wider public interest in the case proceeding outweighed Dr Moran's own interests in adjourning, particularly when no useful purpose would be served by adjourning to a later date.

13. In accordance with Rule 31, the Tribunal determined to proceed in Dr Moran's absence.