

PRIVATE RECORD

Dates: 27 to 29 August 2024 & 14 October 2024

Medical Practitioner's name: Dr Stoyan TSONCHEV

GMC reference number: 7031498

Primary medical qualification: Magister (Physician) 1998 Higher Medical Institute Pleven

Type of case
Restoration following
disciplinary erasure

Summary of outcome
Restoration application refused. Right to make further applications suspended indefinitely.

Tribunal:

Legally Qualified Chair	Miss Ruona Iguyovwe
Lay Tribunal Member:	Mr Ian Crighton
Medical Tribunal Member:	Dr Shehleen Khan

Tribunal Clerk:	Mrs Anne Bhatti
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Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Ms Jane Ironfield, 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 Restoration - 14/10/2024

1. The Tribunal has convened to consider Dr Tsonchev's application for his name to be restored to the Medical Register following his erasure for disciplinary reasons in 2015.
2. The Tribunal has considered the application in accordance with Section 41 of the Medical Act 1983, as amended ('the Act') and Rule 24 of the GMC (Fitness to Practise) Rules 2004, as amended ('the Rules').
3. This is Dr Tsonchev's second application to be restored to the Medical Register.

Background

4. Dr Tsonchev qualified in 1998 from Magister (Physician) Higher Medical Institute Pleven. At the time of the events that led to Dr Tsonchev's erasure they were practising as a doctor at Tunbridge Wells Hospital Emergency Department, at Epsom General Hospital and at the Yeovil District Hospital.

2015 Tribunal

5. The 2015 Tribunal found the following matters proved:
 - a) On 1 June 2013 at Tunbridge Wells Hospital Emergency Department, in respect of Patient A, he failed to arrange appropriate treatment and failed to provide appropriate analgesia.
 - b) Around 28 June 2013, at Epsom General Hospital, he placed his hands on the shoulder and stroked the back of a female colleague, Mrs J and said words to the effect of '*What about a kiss before you leave*'. His conduct in respect of Mrs J was sexually motivated.
 - c) At Epsom General Hospital in 2013, he used his mobile telephone to discuss a business bank account in the presence of a patient.
 - d) At Epsom General Hospital, in respect of Patient A, he failed to arrange an appropriate treatment, and he failed to provide appropriate analgesia.
 - e) On 2 October 2013 at Yeovil District Hospital, in respect of Patient D, he discharged this patient contrary to an agreed plan to review the patient after blood tests. He discharged Patient D with an IV cannula in situ.
 - f) On 30 December 2013, at Yeovil District Hospital, in respect of Patient E, he proposed an inappropriate treatment plan for activated charcoal 3 hours after the patient had overdosed.

- g) He was suspended for 18 months on 30 October 2013. Between the 29 and 30 December 2013, he worked as a doctor at Yeovil District Hospital NHS Foundation Trust in breach of his suspension order.
 - h) He failed to submit to or to comply with an assessment of his professional performance in accordance with Rule 7(3) and Schedule 1 of the Fitness to practise rules.
6. The 2015 Tribunal found that the facts found proved in relation to Patient A, D and E amounted to deficient professional performance.
 7. The 2015 Tribunal found the following actions to amount to serious misconduct; that Dr Tsonchev in 2013 placed his hand on the shoulder and stroked the back of a female colleague Mrs J, it also found that Dr Tsonchev said to Mrs J *'what about a kiss before you leave'*, it found that Dr Tsonchev's actions were sexually motivated.
 8. The 2015 Tribunal found that Dr Tsonchev had worked as a doctor in 2013 when his GMC registration had been suspended. Furthermore, that Dr Tsonchev had failed to submit or comply with an assessment of his professional performance and matters that amounted to misconduct which was serious.
 9. In the absence of any evidence of insight or remediation, the 2015 Tribunal was concerned that there remained a risk of repetition, which would bring the medical profession into disrepute. It took the view that a finding of impairment was necessary to protect public confidence in the medical profession and to uphold proper professional standards. The 2015 Tribunal therefore found Dr Tsonchev's fitness to practise to be impaired by reason of his misconduct and his deficient professional performance.
 10. With regard to sanction, the 2015 Tribunal determined to suspend Dr Tsonchev's registration for a period of 12 months. It did this to mark the gravity of Dr Tsonchev's misconduct and performance and to afford him sufficient time to address the failings identified.

2016 Review Tribunal ('2016 Tribunal')

11. Dr Tsonchev's case was reviewed by a Tribunal in 2016. In light of the evidence presented to it, the 2016 Tribunal considered itself to be in a very similar position to that of the 2015 Tribunal. No evidence was provided to demonstrate that Dr Tsonchev had addressed the 2015 Tribunal's concerns. As such the 2016 Tribunal concluded that Dr Tsonchev's fitness to practise remained impaired.

12. Due to no evidence being presented to demonstrate that Dr Tsonchev had insight into or had remediated his shortcomings, the 2016 Tribunal determined that a further period of suspension would serve no purpose. As such it determined to erase Dr Tsonchev's name from the medical register to ensure that the overarching objective was upheld.

2022 Restoration Tribunal ('2022 Tribunal')

13. The 2022 Tribunal found that Dr Tsonchev had little insight into the inappropriateness of his behaviour towards Mrs J, a colleague, and the undue distress that was caused. The Tribunal concluded that Dr Tsonchev demonstrated a lack of understanding of the role of his regulatory body and a lack of insight into his failings in that regard.
14. The Tribunal took the view that Dr Tsonchev did not understand what a performance assessment was or indeed the value of one and as a result, it found no insight from Dr Tsonchev in this regard. The Tribunal concluded that there was a lack of reflection and insight into his deficient professional performance. The Tribunal concluded that Dr Tsonchev demonstrated no insight into his failings in relation to Patient D. It found some insight in relation to Patient E.
15. It appeared to the Tribunal that Dr Tsonchev was unwilling or unable to properly reflect on past issues, and he did not fully understand the gravity of his actions.
16. The same concerns identified by the 2015 and 2016 Panels, still remained at the time of the 2022 hearing, specifically his limited insight and lack of remediation. It determined it could not be satisfied that Dr Tsonchev's behaviour is unlikely to be repeated again in the future. The Tribunal was therefore concerned about a risk of repetition in Dr Tsonchev's case.
17. The Tribunal noted that Dr Tsonchev had not had any clinical contact with patients in the UK for seven years. It received no evidence of any proactive and targeted steps taken by the doctor towards being restored to the Medical Register by way of Continued Professional Development ('CPD') or testimonials.
18. The 2022 Tribunal determined that restoring Dr Tsonchev to the Medical Register would not meet the three limbs of the overarching objective. It concluded that it was not satisfied that Dr Tsonchev is currently fit to practise and accordingly refused Dr Tsonchev's application to be restored to the Medical Register.

19. Dr Tsonchev was erased on 16 June 2016. The circumstances that led to Dr Tsonchev’s erasure are as outlined above. The first application for restoration made by Dr Tsonchev was refused by the MPTS on 6 September 2022. This application is the second application for restoration.

The Current Restoration Hearing

The Outcome of Applications made during the hearing

20. The Tribunal granted Dr Tsonchev’s application to give oral evidence virtually from Bulgaria. The GMC did not object to the application. The Tribunal’s full decision on the application is included at Annex A.

The Evidence

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

Witness Evidence

22. Dr Tsonchev provided a witness statement, dated 2 February 2024 and also gave oral evidence at the hearing.

Documentary Evidence

23. The parties provided the following documentary evidence:

- MPTS hearing 2015 Transcript and the Record of determination;
- MPTS Review hearing in 2016 Transcript and the Record of determination;
- First application for restoration dated 5 September 2021 and the Record of determination on 6 September 2022;
- Second application for restoration dated 2 February 2024.

Summary of Evidence

Dr Tsonchev

24. Dr Tsonchev provided a written witness statement to the Tribunal in which he went through the facts of the case and his version of events as to what had happened. The

Tribunal considered that the written statement does not provide evidence of insight, remorse or of Dr Tsonchev taking full responsibility for his actions.

25. Dr Tsonchev stated that in relation to Mrs J:

'The nurse was so pretty and It was irresistible to touch her. She could have responded to my feelings. It couldn't have been a huge and unbearable effort for her. I later understood I had to get pre-op investigations. Surely if it is a big issue I will try not to disturb the nurses in that manner, I promise!' [sic]

26. In Dr Tsonchev's oral evidence he stated that he had undertaken work overseas, largely unsupervised though some of the more complex and major surgeries were supervised. Dr Tsonchev accepted in cross examination that he had eight years to prepare for the restoration hearing, however he had not put forward any testimonials. He stated that he did not have the personal details of the people that he had worked with in the UK. He did not address the issue of his overseas work. Dr Tsonchev was reminded that the Legally Qualified Chair in the 2022 hearing had asked him about testimonials and he accepted that he had provided none. In relation to the work in Bulgaria, Dr Tsonchev was asked whether appraisals were a feature of the work in Bulgaria. Dr Tsonchev responded by stating that there were no appraisals in Bulgaria not like in the UK where things were so strict. He said things were a bit more relaxed in Bulgaria.
27. Dr Tsonchev was asked questions about the work he carried out in Bulgaria and whether he had any evidence from supervising surgeons. Dr Tsonchev stated in Bulgaria there was not the same oversight that the GMC do. Dr Tsonchev was unable to provide any evidence of oversight of his work by any supervising surgeons or of any interactions with the colleagues in the three workplaces he currently works in. Dr Tsonchev had not provided evidence of any of the work he had undertaken and there was no evidence of evaluation of his performance, except structured UD8 Forms from the GMC which were completed and signed by each of his three work places, confirming there were no concerns in the form of a tick box. There was no elaboration to the individual concerns that needed to be considered by this Tribunal.
28. Furthermore there was no documentary evidence provided by him of how he had kept his skills and knowledge up to date, he gave no evidence of CPD courses that he had undertaken, and he accepted that he was aware from the decision of the 2015 Tribunal that it would assist him to carry out some CPD courses. Dr Tsonchev stated he had read the decision from 2015 Tribunal, and he had reflected on it, but he was unable to answer when asked why he had not undertaken any CPD training.

29. Dr Tsonchev also accepted that the Tribunal who had heard his case in previous hearings had asked him to consider taking legal advice or advice from his colleagues. Dr Tsonchev informed the Tribunal that he had not sought any legal advice or any advice from his colleagues. Dr Tsonchev said on several occasions during his oral evidence that he will provide further evidence if required in relation to testimonials and other matters raised. He was reminded that the guidance given to him before the hearing had made clear what would be required by the Tribunal hearing his application for restoration.

Submissions on behalf of the GMC

30. On behalf of the GMC, Ms Ironfield invited the Tribunal to have regards to the MPTS Guidance for Medical Practitioners Tribunals on restoration following disciplinary erasure ('the Guidance'). She submitted that the Guidance provides the Tribunal with advice on the approach to be taken and it sets out the test to be applied and the key factors it should consider when deciding if Dr Tsonchev should be restored to the Medical Register.
31. Ms Ironfield submitted that the onus was on the doctor applying for restoration to satisfy the MPT that they are fit to return to unrestricted practice. She submitted that paragraph B2 of the Guidance sets out that the test to be applied by the Tribunal when considering if Dr Tsonchev should be restored is that *'having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective?'*, *GMC v Chandra [2018] EWCA Civ 1898* ('Chandra').
32. Ms Ironfield submitted that Dr Tsonchev in one sense has had eight years to prepare for this hearing since his erasure in 2016 and that he has had a period of time since 2022 (the hearing of the first application for restoration) to reflect upon the reasons why his application was not successful. She further submitted that Dr Tsonchev had had the benefit of the findings of the previous tribunals setting out the evidence of what steps he needed to take to address the question of insight and remediation. He had not provided any evidence of CPD undertaken. He has not provided any testimonials. He has not provided documentary evidence of appraisals of work undertaken. The 2022 Tribunal in the first restoration hearing lacked such documentary evidence.
33. Ms Ironfield submitted that in terms of insight, there was a discernible change in Dr Tsonchev's attitude. In 2014 and 2015 he characterised the matters as unfair and illogical and he stated he was not going to respond to letters. He showed a blatant disregard to

the regulator in 2022 and he felt that his opinion was better than that of others and at that time he did not think that he posed a risk to patients. The 2022 Tribunal formed the view that he displayed no insight. She referred the Tribunal to the two page statement provided by Dr Tsonchev for this hearing. She submitted that it now falls to this Tribunal to decide whether there is evidence of insight and also whether Dr Tsonchev has any understanding of why a performance assessment was required by the regulator then.

34. Ms Ironfield submitted that no evidence has been provided by Dr Tsonchev of any reflections on the findings that he worked during the period of suspension in breach of an interim order of suspension and the impact of having done so. She submitted that Dr Tsonchev's bare assertion that he would in the future co-operate with the regulator's orders is not enough. She submitted that in working in breach of the interim order of suspension Dr Tsonchev had placed his own interest above the public interest.
35. Ms Ironfield submitted that Dr Tsonchev now accepted that the allegations made against him were plainly correct. He has begun to take some responsibility but expressing that the deficiencies were small. She submitted that the Tribunal may take the view that he does not fully appreciate the extent of his deficiencies or the role of the regulator. It was also not clear if Dr Tsonchev understood why a good relationship with the regulator was important.
36. In relation to his deficient clinical practice, she submitted that Dr Tsonchev's written statement gives no indication that he understands why there were concerns. According to the GMC submission, Dr Tsonchev's written statement, rather than showing genuine reflections on what went wrong and demonstrating insight, he had recited tasks. She submitted that this was particularly concerning. She stated that in the written statement he stated that he gave IV morphine but this was not the finding of the 2022 Tribunal.
37. Ms Ironfield further submitted that in 2022 from a perusal of the transcript, the Tribunal will find that Dr Tsonchev had a tendency to blame others. In 2022, he put things down to working in different hospitals. As at this hearing it was for the Tribunal to consider whether he had worked out how he would now locate the necessary resources or liaise with his colleagues and whether this tendency has changed. In this hearing he emphasised about being unfamiliar with the hospital environments that he worked in. She submitted that what was striking about his evidence to this Tribunal was that it lacked any information or detail about how he might deal with any such challenges now. She also submitted that the written statement did not go far enough to address appropriately how he might deal with such challenges in the future.

38. Ms Ironfield submitted that there was no genuine evidence of reflection but just bare assertions that he would conduct himself differently. There was no indication of what he would do differently. In terms of the breach of Good Medical Practice, the written statement did not address the importance of adhering to an agreed plan. She submitted the Tribunal had received oral evidence from Dr Tsonchev but the question is whether the Tribunal is satisfied that he has genuinely engaged with the earlier findings made against him. His bare assertions are not supported by work place appraisals, testimonials, assessments from colleagues as he might have done with this hearing in mind.
39. In relation to Patient E, she submitted that Dr Tsonchev's written statement maintains his tendency to blame colleagues for his own failings. In relation to Patient A Dr Tsonchev stated there was some pain but the pain was bearable. She invited the Tribunal to consider Paragraph B10 of the Guidance dealing with Insight and remorse. It requires a doctor to demonstrate that they have considered the concern, understood what went wrong and accepted that they should have acted differently, demonstrated that they fully understand the impact or potential impact of their performance or conduct for example by showing remorse, demonstrating empathy for any individual involved. She submitted that Dr Tsonchev's response in respect of Patient A shows a lack of empathy. There was no remorse.
40. In respect of Mrs J, she submitted that Dr Tsonchev's statement was concerning as it shows he could not resist touching her. She referred to Dr Tsonchev's oral evidence. She submitted that it was no proper response for Dr Tsonchev to say in response that he was confused about the instructions regarding a patient which led to him being in an elated mood. The written statement sets out that Mrs J could have responded to the touching. Ms Ironfield submitted that Dr Tsonchev's response shows no understanding of the impact of his actions. His statement shows no evidence of empathy and no consideration of the feelings of Mrs J saying '*it could not have been an unbearable effort*'. There was no empathy, no apology and no indication that Dr Tsonchev understands why his touching of Mrs J was inappropriate. There was insufficient evidence to satisfy the Tribunal that there will not be a repetition. His words, '*if it was such a big issue*' tend to suggest that Dr Tsonchev does not think that the touching was such a big issue.
41. The 2015 Tribunal considered that Dr Tsonchev might consider undertaking courses in respect of maintaining professional boundaries. She submitted such evidence would have helped the Tribunal to take account of the factors in B10 of the Guidance and provided evidence that he has understood the concerns and demonstrated that he has taken steps to identify how he would act appropriately in the future.

42. Ms Ironfield submitted there was no evidence from colleagues who might know him to show any reflections of the type within the context of a professional working relationship with colleagues. He is unable to demonstrate genuine insight into this matter as he has failed to address the relevant factors in the Guidance. She submitted there was no evidence of remediation in terms of the misconduct or deficient professional performance. She referred the Tribunal to B20 of the Guidance,

‘The quality of the steps the doctor has taken to remediate the concerns is key to assessing the impact it has had or is capable of having. The tribunal should consider whether any remediation undertaken by the doctor is:

a relevant – in that the steps taken to remediate have directly addressed the concerns identified

b measurable – in that there is objective evidence available that helps the tribunal understand what has been done and what, if anything, is left to be done, and

c effective – in that there is enough information for the tribunal to see how any learning has been assessed and/or applied by the doctor and its impact or success’

43. Ms Ironfield submitted that there was no firm evidence concerning remediation. The evidence provided by Dr Tsonchev has been limited to bare assertions by the doctor. Dr Tsonchev has given evidence that he worked abroad. She referred the Tribunal to paragraph B27 of the Guidance in relation to overseas practice,

‘If the doctor has been practising overseas, tribunals should carefully consider whether they are in good standing, have provided a certificate to this effect, and if they are able to provide satisfactory references from current and previous employers.’

44. Ms Ironfield submitted that the Tribunal should consider whether he had provided satisfactory evidence of this in terms of what the Guidance sets out about overseas practice. She submitted that there were no testimonials or references from his employers. She reminded the Tribunal that Dr Tsonchev has had access to the MPTS Guidance to doctors and he had access to the same Guidance in 2022.

45. In conclusion, she submitted that in view of the lack of evidence of insight and remediation, a restoration of Dr Tsonchev to the register would not be in keeping with the statutory overarching objective. She submitted that restoration would pose a risk to patient safety. The public would be concerned and restoration would undermine public

confidence. She submitted that the Tribunal should find that Dr Tsonchev is not currently fit to be restored to unrestricted practice and that the sanction of erasure should remain.

Submissions by Dr Tsonchev

46. Dr Tsonchev made no closing submissions. He said that he was going to follow the Tribunal's decision and it was up to the Tribunal. He submitted that if the Tribunal decided not to restore his name on the Medical Register in the UK, that he will agree and he would not come to work in the UK. He stated that he would provide any further evidence that the Tribunal required, but stated that he was not asked in advance. He stated that if the Tribunal wanted him to do anything further that it would take time.
47. Dr Tsonchev was reminded by the Tribunal that he had been given the MPTS Guidance for doctors applying for restoration, which sets out what the Tribunal requires as well as the advice from the previous hearings about the evidence required.

The Tribunal's Approach

48. The Tribunal reminded itself that its power to restore a practitioner to the Medical Register in accordance with Section 41 of the Act is a discretionary power. This power is to be exercised in the context of the Tribunal's primary responsibility to act in accordance with the statutory overarching objective to protect the public, as set out later in this determination.
49. While the Tribunal has borne in mind the submissions made by the parties, the decision as to whether to restore Dr Tsonchev's name to the Medical Register is a matter for this Tribunal exercising its own judgment. The Tribunal reminded itself that, if it directs that Dr Tsonchev's name should be restored to the Medical Register, it can do so only without restrictions on his practice.
50. Throughout its consideration of Dr Tsonchev's application for restoration, the Tribunal was guided by the approach laid out in the MPTS 'Guidance for medical practitioners' tribunals on restoration following disciplinary erasure' ('the Guidance').
51. The Tribunal reminded itself that the onus is on Dr Tsonchev to satisfy it that they are fit to return to unrestricted practice and that the Tribunal should not seek to go behind the original Tribunal's findings on facts, impairment and sanction. The Tribunal will be bound by both the original and the reviewing Tribunals' decisions.

52. The guidance sets out at B2 that the test for the Tribunal to apply when considering restoration is that laid down in Chandra:

‘Having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective?’

53. The Tribunal reminded itself that, in making its decision, it should consider the factors set out within paragraphs B4-B34 of the guidance which address:

- a. the circumstances which led to the erasure;
- b. whether Dr Tsonchev has demonstrated insight into the matters that led to erasure, taken responsibility for his actions and actively addressed the findings about his behaviour or skills;
- c. what Dr Tsonchev has done since his name was erased from the register;
- d. the steps Dr Tsonchev has taken to keep his skills and knowledge up to date; and
- e. the lapse of time since erasure;

and then go on to determine whether restoration will meet the overarching objective.

54. The Tribunal was also directed to the case of *Sengupta v General Medical Council [2023] EWHC 1302 (Admin)*. A restoration tribunal should not seek to go behind the findings on facts, impairment and sanction made or fully considered by tribunals at the previous hearing(s).

55. When a tribunal is considering whether to direct that a right to apply for restoration be suspended indefinitely: the tribunal should invite the practitioner to provide further representations, specifically on this issue. The tribunal must consider the likely future position. The fact that an order may be made after two unsuccessful attempts for restoration does not mean that no such order may be made after a third (or subsequent) unsuccessful attempt.

The Tribunal’s Decision

56. The Tribunal has considered the parties’ submissions carefully, considered the findings of the 2015, 2016 and 2022 Tribunals and evaluated the evidence in order to reach its decision as to whether Dr Tsonchev is fit to be restored to unrestricted practice. The

decision as to whether to restore Dr Tsonchev's name to the Medical Register is a matter for this Tribunal exercising its own judgment.

The circumstances which led to Dr Tsonchev's erasure

57. The Tribunal had regard to the circumstances of the case and took the determinations of the 2015, 2016 and 2022 Tribunals into account. The Tribunal bore in mind the nature and level of seriousness of all of Dr Tsonchev's actions which led to the hearing in 2015 and his subsequent erasure on 16 June 2016.
58. The Tribunal bore in mind the circumstances that led to erasure included Dr Tsonchev's failure to arrange appropriate treatment and appropriate analgesia in relation to Patient A, Dr Tsonchev discharged Patient D contrary to an agreed plan to review after a blood test and with a cannula in situ and in relation to Patient E, Dr Tsonchev had proposed an inappropriate treatment plan for activated charcoal, three hours after the patient had been overdosed. The 2015 Tribunal found that this amounted to deficient professional performance.
59. The 2015 Tribunal found the following actions to amount to serious misconduct; that Dr Tsonchev in 2013 placed his hand on the shoulder and stroked the back of a female colleague Mrs J, it also found that Dr Tsonchev said to Mrs J '*what about a kiss before you leave*', it found Dr Tsonchev's actions sexually motivated; Dr Tsonchev had worked as a doctor in 2013 when his GMC registration had been suspended; and Dr Tsonchev had failed to submit or comply with an assessment of his professional performance.
60. Dr Tsonchev had failed to provide remediation and show insight into his misconduct as well as his deficient professional performance due to this lack of remediation and insight the Tribunal found a risk of repetition. The Tribunal determined to suspend Dr Tsonchev for 12 months with a review.
61. The 2016 Tribunal determined to erase Dr Tsonchev's name from the Medical Register. In its determination it stated:

'Dr Tsonchev has not produced evidence to show that he has gained insight into, or has made any start in relation to remediating his shortcomings. This is despite being given an opportunity to do so and clear guidance by the previous Panel. In the Tribunal's opinion, Dr Tsonchev has demonstrated a serious and persistent lack of insight into the concerns raised and a blatant disregard of the need to engage appropriately with the regulatory process. No evidence has been presented to the Tribunal to demonstrate that the situation will improve in the future. In these

circumstances, it determined that a further period of suspension would serve no purpose.

...

The Tribunal has noted the findings of the original Panel regarding the clear breaches of Good Medical Practice in respect of both Dr Tsonchev's conduct and performance, and considered that these failings have been compounded and aggravated by his persistent failure to acknowledge or address these breaches.'

62. Dr Tsonchev's first application for restoration was refused by the 2022 Tribunal.

Whether Dr Tsonchev has demonstrated insight into the matters that led to erasure, taken responsibility for his actions, and actively addressed the findings about his behaviour or skills

63. The Tribunal bore in mind that the Case Manager in June 2024 Pre-Hearing meeting gave Dr Tsonchev guidance on what was required for him at the restoration hearing.

64. The Tribunal bore in mind B9 of the Guidance:

'B9 Tribunals should however be aware that cultural differences and the doctor's circumstances, for example their ill health, could affect how they express insight or how they frame and communicate an apology or regret. They should be aware of, and sensitive to, these issues when assessing whether a doctor has insight.'

65. In considering whether Dr Tsonchev has demonstrated insight, the Tribunal considered paragraphs B10 - B12 of the Guidance, which state:

'B10 Factors that can be relevant to a doctor demonstrating genuine insight include, but are not limited to, evidence they have:

- a considered the concern, understood what went wrong and accepted they should have acted differently*
- b demonstrated that they fully understand the impact or potential impact of their performance or conduct, for example by showing remorse (see below)*
- c demonstrated empathy for any individual involved, for example by apologising fully (see below)*
- d taken steps to remediate and to identify how they will act differently in the future to avoid similar issues arising (see below)*

B11 The doctor is unlikely to be able to demonstrate genuine insight if they have failed to demonstrate some or all of the factors above or have only demonstrated them in a limited way.

B12 Expressing remorse involves the doctor taking responsibility and exhibiting regret for their actions. There could include evidence that the doctor has:

a been open and honest about and admitted their wrongdoing

b apologised fully

c undertaken appropriate remediation.'

66. In relation to insight the Tribunal bore in mind the oral evidence of Dr Tsonchev to the Tribunal about the deficient professional performance:

'Question, Ms Ironfield: And do you take that view because of your description that the deficiencies in your professional performance that you accept were only small ones as you put it?

Answer, Dr T: If they didn't lead to the death of a patient, I think they're not so big. If they're small or middle, it's not so important, but no one died during my work in UK as a doctor.'

67. The Tribunal was of the view that Dr Tsonchev had not accepted the seriousness of the deficient professional misconduct. Dr Tsonchev had accepted that he should have acted differently in relation to Patient E, as he should have contacted the poison centre.

68. In relation to Patient D, Dr Tsonchev had stated to the 2022 Tribunal that he did not think it was professional incompetence that Patient D was discharged contrary to an agreed plan to review after blood test and with a cannula in situ. In his evidence to the Tribunal, he stated that it was a small professional issue and he would avoid doing this in the future. Dr Tsonchev had stated that Patient D was waiting in the lobby and had not been released and therefore there was time to remove the cannula. The Tribunal was of the view that Dr Tsonchev had not fully accepted responsibility for his actions in relation to Patient D.

69. In Dr Tsonchev's evidence to the Tribunal in relation to Patient A where he had failed to arrange appropriate treatment and appropriate analgesia. Dr Tsonchev stated that he would in the future seek more assistance from his senior colleagues, he then tried to give different evidence in comparison to the original evidence. The Tribunal was of the view that he had not fully reflected on his conduct in relation to Patient A.

70. The Tribunal considered the sexually motivated misconduct in relation to Mrs J. Dr Tsonchev had written in his statement in relation to Mrs J as set out above. Furthermore, in his oral evidence he stated, *'working with beautiful women is Sometimes irresistible, but in the future it's not going to happen'*. In addition he stated:

'Question, Ms Ironfield: Why do you think it is inappropriate?

Answer, Dr Tsonchev: Because, it provokes such so many discussions it causes so many discussions and so many, so many answers and responses. So if it's a big deal, I'm not going to do this in the future.

Question, Ms Ironfield: So is it the consequences of the touching that you had to deal with? This now make you think it was an inappropriate thing to do.

Answer, Dr T: Yes, it is inappropriate. If she made the complaint, I should be blamed... so if I'm subject to so many investigations, I'm not trying to do this in the future'

71. The Tribunal was of the view Dr Tsonchev stated that the reason was because a complaint had been made and the consequences which had arisen as a result of the complaint. He had stated that the reasons that led to his behaviour was because of instructions he had received in relation to a patient that had led him to be in an elated mood. The Tribunal concluded that Dr Tsonchev had not reflected, shown empathy or remorse or apologised for his actions towards Mrs J nor did he show that he had an understanding of the the impact of his actions on her. When Dr Tsonchev was asked what he would do in the future in a similar situation regarding a colleague that he was attracted to, he merely stated that he would not repeat the behaviour. Dr Tsonchev had not completed any courses on maintaining professional boundaries. Such courses would have helped him to understand and reflect on his actions. Furthermore there was no evidence from his colleagues that he had reflected on his behaviour. Dr Tsonchev had not taken steps to remediate and to identify how he would act differently in the future to avoid similar issues arising.
72. The Tribunal concluded that Dr Tsonchev lacked insight into the sexual misconduct and based on the reasons set out above there remained a significant risk of repetition.
73. Dr Tsonchev response in oral evidence regarding why he worked as a doctor whilst he had been suspended, was, *'It was only one shift and I didn't know because I had to gain some money to go back to Bulgaria because in UK I won't be able to work any further'*. Furthermore, he confirmed in oral evidence that he had put his own personal interests over the suspension order made by the Tribunal and that he was not going to do so in the future.

Insight and remorse

74. The Tribunal determined that there was insufficient evidence to show Dr Tsonchev's insight into all the matters that led to erasure. The Tribunal considered from the evidence that it could not be satisfied that Dr Tsonchev had shown genuine insight into what went wrong, the impact of his actions or that he appreciated what could have been done differently in future to avoid similar concerns occurring again.
75. In relation to insight and remorse, the Tribunal considered the factors in the Guidance that are relevant. Dr Tsonchev failed to demonstrate to the Tribunal that he fully understood the impact of the performance or his conduct. There was no remorse shown and he demonstrated no empathy for some of the patients for instance Patient A or for his colleague, Mrs J.
76. The Tribunal was of the view that Dr Tsonchev had shown no empathy and no remorse for Patient A, D and E. There was no evidence that Dr Tsonchev had fully understood the impact of his actions on the patients. His witness statement and oral evidence did not provide sufficient evidence of him understanding the seriousness of the findings.
77. There was no clear evidence of his understanding of the importance of the role of a regulator and of him having a good relationship with the regulator.

Remediation

78. When assessing remediation in restoration cases, the Tribunal should consider the following questions:
- *Are the previous findings/any new concerns about the doctor's behaviour, skills, performance or health remediable?*
 - *Have the findings about the doctor's behaviour, skills, performance or health been remedied?*
 - *Are the previous findings about the doctor's behaviour, skills, or performance likely to be repeated?*
79. The Tribunal concluded that Dr Tsonchev's misconduct and deficient professional performance can be remediated, although it acknowledged that it can be more difficult to demonstrate sufficient remediation in cases involving serious behaviour such as sexual

misconduct, where the doctor's behaviour towards colleagues, patients or other individuals in the workplace may suggest underlying problems with their attitude. This case involves sexual misconduct against Mrs J, Dr Tsonchev's colleague.

80. The Guidance states there is not a set way to demonstrate remediation; the way in which the doctor can show they have actively addressed the concerns will depend on the specific facts of the case. The Tribunal will assess the quality of the steps the doctor has taken to remediate the concerns and this is key to assessing the impact it has had or is capable of having.
81. In this case the Tribunal considered whether any remediation undertaken by Dr Tsonchev was relevant and whether any steps taken by him had directly addressed the earlier concerns raised in his case. It also considered whether those steps were measurable in terms of objective evidence that may be available to help the Tribunal to understand what has been done and what, if anything was left to be done. Furthermore, it considered whether such steps were effective – in that there is enough information for the Tribunal to see how any learning has been assessed and/or applied by the doctor and its impact or success.
82. The Tribunal was not satisfied that Dr Tsonchev had provided sufficient evidence of remediation. Apart from Dr Tsonchev's oral evidence to the Tribunal, the only evidence that the Tribunal received were three medical statements from the three places he had worked at to say he was undertaking medical services work. Neither of these addressed the misconduct in question or the concerns raised.
83. Dr Tsonchev has not provided the Tribunal with appraisals from his supervisors, assessments of his work or any testimonials regarding his performance in the medical roles that he stated he has worked in Bulgaria.
84. He had not provided any statement or evidence of reflecting on his behaviour or any testimonials from colleagues to show that he had reflected on the misconduct. He has not provided any evidence of any Continued Professional Development Course that he had attended to suggest he had engaged with the findings of the previous Tribunals. Furthermore he did not provide evidence of courses he had attended on maintaining professional boundaries or how to address the deficient professional performance. Whilst he stated in his oral evidence that he had completed courses in Bulgaria and had been reading medical literature and watching medical videos, no documentary evidence had been provided to the Tribunal from which it could assess the content of such training. Dr Tsonchev's response when asked about evidence to support this, he stated if

the Tribunal requested them he would translate them in English and submit them to the Tribunal.

Risk of repetition

85. The Tribunal considered whether there was a risk of repetition. In doing so it took into account the circumstances that gave rise to the concerns, what steps Dr Tsonchev had put in place to avoid the circumstances arising again, whether there was evidence of remediation. The Tribunal concluded that given there was lack of complete insight, no evidence of remediation and nothing to show that Dr Tsonchev had learnt from the findings relating to his deficient professional performance and the misconduct, there was therefore a significant risk of repetition in his case.

What Dr Tsonchev has done since his name was erased from the register

86. The Tribunal heard evidence that Dr Tsonchev has provided medical services at three different work places in Bulgaria. This was confirmed in the Medical Services Statement in Dr Tsonchev's second restoration application dated 2 February 2024. It was confirmed that Dr Tsonchev was regulated by the Bulgarian Medical Association.
87. Dr Tsonchev was working at Center for Emergency Medical Assistances in a medical role since 1 October 2014. This was confirmed by Ms F, Head of Brigade. Dr Tsonchev had confirmed that he working as a doctor in an ambulance.
88. Dr Tsonchev is working at MBAL Knyaginya Klementina. Ms G, Director confirmed that Dr Tsonchev commenced this employment on 30 December 2020 and that he was providing medical services for the organisation.
89. Dr Tsonchev was also working at 4th Multiprofile Hospital since 30 December 2020 and had been working in a medical role. This was confirmed by Dr H, Head of General Surgery Ward.
90. The GMC had obtained verification of signature from two out of the three employers provided by Dr Tsonchev to the Tribunal.

The steps Dr Tsonchev has taken to keep his medical knowledge and skills up to date

91. The onus is on the doctor to demonstrate they have kept their medical knowledge and skills up to date and are safe to resume unrestricted practice. The Tribunal recognised Dr

Tsonchev will not have had clinical contact with patients in the UK since he was erased from the register. The Guidance requires the Tribunal to evaluate whether the steps taken to keep skills and knowledge up to date are adequate to allow a return to full practice. Doctors may demonstrate that they have maintained their clinical knowledge and skills in a variety of ways as set out in the Guidance such as through undertaking clinical placements and/or observing clinical consultations, attending relevant training courses in person and through overseas practice.

92. In this case the Tribunal was not satisfied from the evidence it received on behalf of Dr Tsonchev that he had kept his medical knowledge and skills up to date and that he was safe to resume unrestricted practice.

The lapse of time since erasure

93. The length of time that has elapsed since the doctor was erased is relevant in deciding whether they pose a risk to patients or to public confidence in the profession. The longer the doctor has been away from clinical practice, the greater the likelihood that their knowledge and skills will have deteriorated to a degree that may place patients at risk. Dr Tsonchev was erased from the Medical Register in June 2016 which was over eight years ago. During that period Dr Tsonchev has repeatedly failed to show full insight into the misconduct and deficient professional performances and there was a lack of evidence of maintaining his clinical skills and knowledge or performance, despite requests from previous Tribunals and clear guidance about the evidence and further information required from him

Will restoration meet the overarching objective?

94. Having made the above findings as to whether Dr Tsonchev is fit to practise, the Tribunal next had regard to the statutory overarching objective. In so doing, it performed a balancing exercise, weighing its findings above with its obligations under the individual limbs of the overarching objective which are:
- To protect, promote and maintain the health, safety and well-being of the public
 - To promote and maintain public confidence in the profession, and
 - To promote and maintain proper professional standards and conduct for members of that profession.

95. The Tribunal was mindful of the serious findings that led to Dr Tsonchev's erasure in 2016. For the reasons it has already set out, the Tribunal concluded that Dr Tsonchev does not have insight into the misconduct and deficient professional performance, has not remediated, shown remorse or provided evidence of what medical work he has been undertaking in Bulgaria or evidence that he has kept his medical knowledge and skills update to date. As a consequence, it determined that there would be a risk to patient safety if Dr Tsonchev were permitted to return to the register unrestricted. Furthermore, returning Dr Tsonchev to the register would not promote and maintain public confidence in the profession or proper professional standards and conduct for member of that profession. In these circumstances, the Tribunal concluded that restoration to the register would undermine all three limbs of the overarching objective.

Performance assessment

96. The Tribunal considered whether it should direct Dr Tsonchev to undergo a performance assessment. Applying the Guidance, the Tribunal did not consider this to be an appropriate case to make such a direction. This is due to the fact that there is insufficient evidence presented to the Tribunal of steps taken by Dr Tsonchev to keep his skills and knowledge up to date as well as a failure to remediate the misconduct.

Conclusion

97. Having carefully considered the evidence and specific circumstances of this case, the Tribunal was not satisfied that Dr Tsonchev is fit to return to unrestricted UK practice. Accordingly, it refused Dr Tsonchev's application to be restored to the Medical Register.

Determination under section 41(9) of the Medical Act - 14/10/2024

1. Having made a decision to refuse Dr Tsonchev's application for restoration, as required under Rule 24(2) of the Fitness to Practise Rules, the Tribunal then invited submissions from the parties as to the exercise of its power under section 41(9) of the Medical Act 1983 to direct that Dr Tsonchev's right to make any further such applications should be suspended indefinitely.
2. Section 41(9) of the Medical Act states:

'41(9) Where, during the same period of erasure, a second or subsequent application for the restoration of a name to the register, made by or on behalf of the person

whose name has been erased, is unsuccessful, a Fitness to Practise Panel may direct that his right to make any further such applications shall be suspended indefinitely.'

3. The Tribunal invited further representations and evidence from Dr Tsonchev specifically upon this issue. No further evidence was received. Dr Tsonchev indicated that he would wish to call evidence pertaining to courses in emergency medicines which he had attended and also put forward some references. Dr Tsonchev had the opportunity to call such evidence before now and nothing had been forthcoming, furthermore the evidence should be specifically upon the issue of an indefinite suspension order, the Tribunal proceeded to hear representations.

Submissions

On behalf of the GMC

4. Ms Ironfield on behalf the GMC reminded the Tribunal of its findings in the restoration determination. She referred the Tribunal to the 'Guidance for medical practitioners tribunals on restoration following disciplinary erasure' ('the Guidance'), which states:

'E1 If restoration is refused, the doctor must automatically wait at least 12 months before applying again. The tribunal has no discretion to make this period longer or shorter unless the doctor has made two or more previous applications.

E2 If it is the doctor's second unsuccessful application, tribunals should consider whether to indefinitely suspend the doctor's right to apply for restoration.

E3 The doctor has the right to make representations on the question of whether the tribunal should use their power to indefinitely suspend further restoration applications.'

5. Ms Ironfield reminded the Tribunal of paragraphs E4 and E5 of the Guidance which referred to Dr Tsonchev's right to apply for a review of the decision of indefinite suspension.
6. Ms Ironfield reminded the Tribunal that this was Dr Tsonchev's second unsuccessful application for restoration and that it had been eight years since Dr Tsonchev was erased. Dr Tsonchev had not demonstrated any appreciable understanding of what was or is required to make a successful application for restoration. Ms Ironfield submitted that it did not appear that Dr Tsonchev had given due regard to the fact that the onus was upon him to satisfy a restoration tribunal that he is fit to return to unrestricted practise. She submitted that offering to provide documentation during the hearing or

evidence was too late, as this evidence gathering should have taken place before the hearing itself. She submitted it had been two years since his previous restoration application.

7. Dr Tsonchev had been given advice by previous tribunals regarding helpful information which he could provide to future tribunals considering his application for restoration. Ms Ironfield submitted that neither of the restoration applications had met the expectation of the Guidance despite every encouragement by past tribunals.
8. Ms Ironfield submitted that there has been the same repetition of failures despite clear advice of the previous Tribunals and Dr Tsonchev's possession of the Guidance. He had not taken steps to put this Tribunal in a different position. She stated that the practical result is consideration of the hearing, time set aside for the hearing of restoration applications by Dr Tsonchev.
9. Ms Ironfield submitted that in these circumstances that the Tribunal should exercise its discretion to indefinitely suspend Dr Tsonchev's right to apply for restoration under section 41(9) of the Medical Act 1983.

Dr Tsonchev

10. Dr Tsonchev did not make any submissions.

The Relevant Legal Principles

11. This is Dr Tsonchev's second application for restoration. As restoration has been refused, under Section 41(9) of the Medical Act 1983, the Tribunal now has the power to make a direction to suspend indefinitely Dr Tsonchev's right to make further applications for restoration.
12. Before making any such direction, the Tribunal shall consider any representations made and any evidence received as set out in Rule 24 of the FTP Rules which provides:

'1) The FTP Panel shall consider an application in accordance with the procedure set out in this Rule.

2) The order of proceedings at a hearing to determine an application shall be as follows—

- (i) *before deciding whether or not to make a direction to suspend indefinitely the applicant's right to make further applications for restoration under section 41(9) of the Act, the Medical Practitioners Tribunal shall-*
- (ii) *consider any representations made and evidence received, and*
- (iii) *where the applicant is present, invite further representations and evidence from him specifically upon this issue.'*

13. In the case of *Sengupta v General Medical Council* [2023] EWHC 1302 (Admin) it was decided that when a Tribunal is considering whether to direct that a right to apply for restoration be suspended indefinitely:

- the Tribunal should invite the practitioner to provide further representations, specifically on this issue.
- the Tribunal must consider the likely future position.
- the fact that an order may be made after two unsuccessful attempts for restoration does not mean that no such order may be made after a third (or subsequent) unsuccessful attempt.

14. In another decided case the Court outlined some matters that the Tribunal is required to have regard to when exercising its discretion in deciding whether to make such an order or not.

15. In *Gosai v General Medical Council* [2003] UKPC at [23] the Privy Council said this about the power to make a section 41(9) order:

'...There is no basis for the assertion that suspension of the right to apply for restoration should be restricted to very clear cases or should be regarded as exceptional. The PCC's discretion to impose a suspension order is, on the face of the legislation, unconfined and unfettered. The Committee was not obliged to start with a presumption that the power to make a suspension order was in any way an exceptional or unusual remedy. It was entitled to have regard, in exercising the discretion, to the public interest. It was also entitled to have regard to the interest of those who would be otherwise affected by repeated applications for restoration, such as (as in the present case) the family of the victim of a doctor's misconduct which has taken an active part in the proceedings, which may suffer anguish and be caused expense by repeated restoration applications by the doctor.'

16. The Medical Practitioners Tribunal Service ("MPTS") has also provided detailed guidance on the approach to be taken at restoration hearings entitled *'Guidance for medical*

practitioners tribunals on restoration following erasure ('the Guidance'). The Guidance covers an overview of the legislative framework and the applicable legal principles, the factors which the MPT should consider in exercising its powers and the approach to be taken.

17. It is important for the Tribunal to give clear reasons for its decision and the decision must clearly demonstrate that all three elements of the overarching objective were considered and that, if restoration was granted, this was judged to be consistent with our duty to protect the public. The Guidance states that:

'G1 It is important that tribunals give clear reasons for their decision to either refuse or grant restoration which address all the factors relevant to the doctor's fitness to practise.

G2 Decisions must clearly demonstrate that all three elements of the overarching objective were considered and that, if restoration was granted, this was judged to be consistent with our duty to protect the public. This includes to protect and maintain the health, safety and wellbeing of the public, to maintain and promote public confidence in the profession and proper professional standards and conduct.'

18. Section 40 of the Medical Act 1983 sets out decisions which are appealable decisions for the purposes of that section. A decision of the MPTS under section 41(9) of the Act giving a direction that the right to make further applications under that section shall be suspended indefinitely is an appealable decision. So if the Tribunal decides to exercise its discretion to give such a direction in this case, it is open to Dr Tsonchev to challenge that decision on appeal.

19. It is also open to Dr Tsonchev to apply to the Registrar for a review of the decision after three years.

20. The Guidance also states that:

'Review of a decision to suspend indefinitely the doctor's right to re-apply

E4 The doctor may apply to the Registrar for the decision to indefinitely suspend their right to re-apply for restoration to be reviewed by a tribunal after three years from the date of the decision. Such application will be governed by rule 24 of the General Medical Council (Fitness to Practise) Rules 2004 and sections 41(9) and 41(11) of the Medical Act

E5 The tribunal may grant the application to allow the doctor to make a further application for restoration or refuse it. If the doctor's application is not successful, they cannot make a further application for review within three years of the date of the tribunal's decision. The tribunal has no discretion to make this period shorter or longer. If the doctor is unsuccessful, there is no statutory right of appeal, although the doctor has a right to challenge the decision by way of judicial review.'

The Tribunal's decision on Dr Tsonchev's right to make further applications for restoration

21. In reaching its decision on the application under section 41(9) of the Medical Act 1983, the Tribunal had regard to the overarching objective, the Guidance and submissions. This is Dr Tsonchev's second unsuccessful restoration application and under section 41(9) of the Act, the Tribunal has the power to consider whether to indefinitely suspend the doctor's right to apply for restoration.
22. The Tribunal reminded itself that the power should be exercised only if it is fair and not disproportionate to do so.
23. The Tribunal bore in mind that it had now been two years since Dr Tsonchev's last restoration application in 2022. The Tribunal considered that the 2022 Tribunal's determination made it very clear to Dr Tsonchev what was required of him should he make a further application for restoration. In addition, the Case Manager at the Pre-Hearing Meeting in 13 June 2024 had also made it clear what was required of Dr Tsonchev regarding the restoration application and what evidence was required. Dr Tsonchev had had ample time to provide this and had received clear guidance from the previous determinations.
24. The Tribunal determined that Dr Tsonchev had not made any progress since the previous restoration application to support his current application for restoration. Dr Tsonchev had not engaged with the previous tribunals' findings, had a continued lack of insight and remediation, and had not provided any evidence to address the concerns raised.
25. The Tribunal noted that there has now been a considerable passage of time of more than eight years since the misconduct and deficient professional performance were dealt with by the 2015 Tribunal. The Tribunal has noted that since the earlier findings were made in 2015, 2016 and 2022, Dr Tsonchev has not taken any significant steps to prepare himself for return to unrestricted practice. There is continued lack of insight and no evidence of remediation. Even now he does not appear to have fully understood the gravity of his misconduct. The Tribunal was of the view that, were Dr Tsonchev to be permitted to

make a further restoration application, a future Tribunal is likely to find itself in the same position. Accordingly, the Tribunal has determined that it would not be in the public interest to restore him to the register and has rejected his second application for restoration.

26. In light of the terms of its determination to refuse restoration, the Tribunal has decided to impose a direction to suspend indefinitely the right of Dr Tsonchev to make further applications for restoration. The Tribunal considers this necessary because of Dr Tsonchev's continued lack of insight into his significant failures despite the lapse of time since the events that gave rise to his erasure. In reaching this decision, the Tribunal had regard to the public interest and also Dr Tsonchev's own interests. The Tribunal has also had regard to the practical effect of repeated applications for restoration by a practitioner in Dr Tsonchev's position. The Tribunal is satisfied that this is a fair and proportionate response in the circumstances of this case.
27. That concludes this case.

ANNEX A – 27/08/2024

Application to consider permission to give oral evidence in a virtual hearing from abroad

1. The Tribunal considered Dr Tsonchev’s application to give oral evidence in a virtual MPTS hearing from abroad.
2. Dr Tsonchev confirmed that he did not need permission from the Bulgarian authorities to give oral evidence at the hearing. Ms Ironfield, Counsel on behalf of the GMC submitted that the GMC did not have any objection to Dr Tsonchev giving oral evidence from abroad.

Evidence

3. The Tribunal considered correspondence between Dr Tsonchev, the GMC and MPTS, dated May to August 2024. Dr Tsonchev provided correspondence he had with the Foreign Press Section, HMCTS Royal Courts of Justice London, dated June to July 2024 and one email was undated. Furthermore, the Tribunal considered the directions given at the Case Management Pre-Hearing Meeting dated 13 June 2024 which provided Dr Tsonchev guidance on what steps he must take if he wished to give evidence from Bulgaria.

The Relevant Legal Principles

4. The Tribunal bore in mind the guidance, ‘*Receiving witness evidence at Medical Practitioners Tribunal hearings Guidance for Decision Makers, Parties and Representatives*’ in particular paragraph 55 which stated:

‘The tribunal must decide whether allowing the practitioner to present their case remotely (whether by video link, telephone or by engagement through other forms of correspondence) is in the interests of justice and is a proportionate and workable adjustment in view of the change of circumstances in the particular case’

Tribunal’s decision

5. The Tribunal bore in mind that whilst Dr Tsonchev had not sought permission from the Bulgarian Authorities to give oral evidence at the virtual MPTS hearing from abroad, but had engaged with the process to obtain permission to give oral evidence from abroad. Dr Tsonchev had contacted the Foreign Process Section, HMCTS Royal Courts of Justice,

London and was provided with further information regarding what the next steps were. However, he had not taken those further steps.

6. The Tribunal considered whether it would be in the interests of justice for Dr Tsonchev to give his evidence by way of a written statement, bearing in mind that English was not his first language and that he may not be able to express himself as well in writing.
7. The Tribunal concluded Dr Tsonchev had taken some steps to try to obtain permission but had not gone far enough. However, it was in the interests of justice for him to be able to give oral evidence virtually at the hearing as this would allow Dr Tsonchev the opportunity to fully express himself and be able to be cross-examined on his evidence. The Tribunal was of the view that it was in the interests of fairness to permit Dr Tsonchev to give oral evidence at the hearing.
8. In reaching its decision, the Tribunal also took into account the difficulty that would be created if Dr Tsonchev had to provide written statements and submissions in this hearing. As English is not Dr Tsonchev's first language, it would make the hearing longer and more difficult for him. It would also mean that the Tribunal and the GMC would be less able to explore matters fully and to clarify responses provided.
9. The Tribunal granted the application for Dr Tsonchev to give oral evidence from abroad remotely at the MPTS hearing.