PUBLIC RECORD

Dates: 30/08/2022 - 01/09/2022

Medical Practitioner's name:	Dr Theodore SOUTZOS
GMC reference number:	3453728
Primary medical qualification:	MB BS 1990 University of London

Type of case

Review of decision to indefinitely suspend right to apply for restoration (following disciplinary erasure)

Summary of outcome

Application refused, direction maintained. No further reviews of direction allowed for 36 months.

Tribunal:

Legally Qualified Chair	Mr Malcolm Dodds
Lay Tribunal Member:	Mr Geoff Brighton
Medical Tribunal Member:	Dr Ann Wolton

Tribunal Clerk:	Miss Evelyn Kramer

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Christopher Geering, Counsel, instructed by direct access
GMC Representative:	Ms Sarah Barlow, 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 the Review of the Decision to Indefinitely Suspend the Right to Apply for Restoration - 01/09/2022

1. This determination will be handed down in private. However, as this case concerns Dr Soutzos's application for a review of the decision to indefinitely suspend his right to apply for restoration to the Medical Register, a redacted version will be published at the close of the hearing.

Background

2. The Tribunal had regard to the background to Dr Soutzos's application.

The 2010 Panel

3. In September 2010, a Fitness to Practise (FTP) Panel ('the 2010 Panel') directed that Dr Soutzos's name be erased from the Medical Register. The 2010 Panel found that:

4. Dr Soutzos, who at the time worked as a consultant psychiatrist, had pursued and/or established an improper emotional and sexual relationship with three patients (identified as Patient A, Patient B and Patient C) on various dates between January 1999 and November 2006. The sexual relationship with Patient C lasted approximately six months. The 2010 Panel found that Dr Soutzos's conduct in respect of these patients was sexually motivated and amounted to misconduct. It concluded that his actions towards all three patients constituted a pattern of predatory and reprehensible sexual misconduct towards vulnerable patients. One victim was 18 and one victim was 22 at the time of the relevant events and which behaviour endured over a period of several years.

5. The 2010 Panel also found that Dr Soutzos had breached conditions imposed on his registration by the Interim Orders Panel (IOP), in that he failed to inform a solicitor and the mother of a patient that his registration was subject to restrictions. It found that Dr Soutzos's

conduct was dishonest and amounted to serious departures from the standards of behaviour required of a doctor and amounted to misconduct.

6. The 2010 Panel determined that Dr Soutzos demonstrated no appreciable insight into his wrongdoing or its impact. It determined that the facts found proved constituted repeated and serious breaches of the principles set out in Good Medical Practice (GMP) and that public confidence in the reputation of the medical profession was likely to have been damaged by his behaviour. It concluded that Dr Soutzos's fitness to practise was impaired.

7. Having had regard to all the circumstances, the 2010 Panel determined that the only sufficient and proportionate way in which patients, the public and the reputation of the profession could be protected was by erasing Dr Soutzos's name from the Medical Register.

The 2016 Tribunal

8. Having been erased by the 2010 Panel, Dr Soutzos was not permitted to apply for restoration until five years had elapsed. In 2016, a Medical Practitioners Tribunal (MPT) ('the 2016 Tribunal') convened to consider Dr Soutzos's first application for restoration.

9. In summary, the 2016 Tribunal was concerned by Dr Soutzos's failure to admit the full extent of the allegations which were found proved in 2010. It was not reassured from Dr Soutzos's evidence that he had adequately reflected upon and remediated his misconduct. As such, the 2016 Tribunal could not be satisfied that Dr Soutzos would not repeat this behaviour in the future. Taking the above into account, it determined that there would be a risk to the public and its confidence in the medical profession if Dr Soutzos's name was restored to the medical register. It therefore refused his application for restoration.

The 2017 Tribunal

10. In 2017, an MPT ('the 2017 Tribunal') convened to consider Dr Soutzos's second application for restoration.

11. The 2017 Tribunal determined that there were a number of positive elements to support Dr Soutzos's application for restoration. This included evidence of Continuing Professional Development (CPD) undertaken by Dr Soutzos, his expressed remorse for his previous misconduct and the fact that there was no evidence of its repetition. However, the 2017 Tribunal was *'deeply troubled'* by Dr Soutzos's oral evidence. It found that his answers were unclear and evasive and that he did not explicitly accept the findings of the 2010 Panel.

12. Dr Soutzos stated during his oral evidence that since the 2010 Panel, XXX. It determined that this demonstrated his continued poor insight XXX and regard for appropriate boundaries.

13. Having regard to all of the circumstances, the 2017 Tribunal determined that restoring Dr Soutzos's name to the Medical Register would not be in the public interest as it would undermine public confidence in the profession and would risk patient safety. Accordingly, it determined to refuse his application for restoration. The 2017 Tribunal further determined that it should not exercise its power to indefinitely suspend his right to reapply for his name to be restored to the Medical Register.

The 2018 Tribunal

14. In 2018, an MPT ('the 2018 Tribunal') convened to consider Dr Soutzos's third application for restoration.

15. In his oral evidence to the 2018 Tribunal, Dr Soutzos accepted that the findings of the 2010 Panel amounted to misconduct. He admitted that, under cross-examination during the 2010 Panel, he *'blatantly'* lied in his evidence. He apologised to Patient A, Patient B, Patient C and to the 2018 Tribunal. Dr Soutzos's evidence was that he understood, for the first time, the impact that his sexually motivated conduct had on all three patients when he attended the Maintaining Professional Boundaries courses in June 2018. The 2018 Tribunal determined that Dr Soutzos's evidence was capable of demonstrating that he had developed some insight into his actions. It found that he had not sought to evade any questions put to him.

16. However, the 2018 Tribunal remained concerned about Dr Soutzos's insight into the serious misconduct that had led to his erasure. It took into account the timing of Dr Soutzos's new-found insight - a month before this restoration hearing. It questioned whether this was a sincere 'epiphany' or a mere 'box-ticking exercise' in an attempt to be restored the medical register. The 2018 Tribunal determined that this was a legitimate concern to have, given Dr Soutzos's own admission of dishonesty which related to his past misconduct, a position he maintained for the past eight years, and his admission to the 2018 Tribunal that he had lied in a previous hearing. Further, the 2018 Tribunal was concerned that it had heard evidence that Dr Soutzos had been conducting therapy sessions in a female patient's home. The 2018 Tribunal was concerned that a doctor who had been erased for sexually motivated conduct with female patients would consider it appropriate to conduct consultations in this manner.

In all the circumstances, the 2018 Tribunal determined that any insight demonstrated by Dr Soutzos was, at best, fledgling.

17. In respect of remediation, the 2018 Tribunal acknowledged that Dr Soutzos had undertaken extensive and focussed CPD and had taken steps to keep his skills and knowledge up to date. However, the 2018 Tribunal noted that clinical competence was not an issue in Dr Soutzos's case. Rather, it found that Dr Soutzos had shown an inability to translate theory into practice when it comes to developing and implementing boundaries. The 2018 Tribunal considered the evidence of the nine testimonial witnesses and was concerned that only one had familiarised herself with the details of Dr Soutzos's erasure.

18. XXX. Given the concerns about Dr Soutzos's probity XXX.

19. In all the circumstances, the 2018 Tribunal determined that Dr Soutzos had demonstrated insufficient insight and had not remediated, and that patient safety and public confidence in the profession would be seriously undermined if his restoration application were granted. The 2018 Tribunal concluded that Dr Soutzos had failed to satisfy it that he was fit to practise and that his name should be restored to the Medical Register. It therefore refused his application.

20. The 2018 Tribunal determined that in the circumstances of Dr Soutzos's serious, persistent misconduct committed for self-interest, and having serious concerns about his probity, allowing him to return to practise would undermine public confidence in the profession and send an unacceptable message to the profession as a whole. The 2018 Tribunal found that since the 2010 Panel Dr Soutzos had still not demonstrated sufficient insight and remediation to assure a Tribunal that there is no risk to patient safety. The 2018 Tribunal continued to have concerns about Dr Soutzos's understanding of proper boundaries with patients. Despite very good and comprehensive advice from the courses that he had attended, this had not been implemented into his practice.

21. The 2018 Tribunal determined it would be difficult for circumstances to change to a degree that would give any value to Dr Soutzos making further applications to be restored to unrestricted practice. The Tribunal has therefore determined to indefinitely suspend Dr Soutzos's right to reapply for restoration.

Today's Restoration Hearing

22. This Tribunal has convened to consider Dr Soutzos's application for a review of the decision to indefinitely suspend his right to make further restoration applications, in accordance with Section 41 of the Medical Act (1983) ('the Act') and Rule 24 of the General Medical Council's (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules').

The Outcome of Applications Made

23. The Tribunal granted the application made on behalf of Dr Soutzos, not opposed by Ms Fordham on behalf of the GMC, to allow three character witnesses to give evidence via video link pursuant to Rule 34(13) of the Rules. The Tribunal determined that, in the circumstances of the witnesses providing testimonial evidence, rather than evidence of fact, it was in the interests of justice to grant the application to allow all three character witnesses to attend by video link.

24. The Tribunal granted the request made on behalf of Dr Soutzos's character witness, Patient Z, to hear his evidence in private under Rule 41 of the Rules. The Tribunal determined that the circumstances of the case, particularly Patient Z's concerns to protect his anonymity while discussing confidential matters, outweighed the public interest in hearing Patient Z's evidence in public.

The Evidence

25. The GMC called no witnesses to give oral evidence and relied solely on the documentary evidence provided to the Tribunal.

26. Dr Soutzos provided a number of additional reflective documents. Dr Soutzos gave evidence at the hearing.

27. In his oral evidence, Dr Soutzos fully accepted that his behaviour towards Patient A, Patient B and Patient C had been predatory and manipulative. He told the Tribunal that he was now a different person, who had been on a long journey through the *'therapeutic process'* of regulatory proceedings and had been allowed enough time to develop insight, remediation and understanding. Dr Soutzos explained how his life was different now. He said that XXX, has been able to reflect more fully on his relationships with others and the need for empathy. XXX.

28. Dr Soutzos explained that his behaviour in relation to Patient A, Patient B and Patient C was driven by his having been *'desperately unhappy'* and failing to live according to his *'core value'* of family. He said that he did not know how to go about having a family and sought out emotional and sexual connections with his patients. XXX. Dr Soutzos explained that he now lives in accordance with his values and is a more *'rounded'* person. Dr Soutzos explained that he has developed strict boundaries, both in his family life and as a freelance therapist. In a clinical setting, he said boundaries protect his clients as well as him. As an example, he said that he ensures that all his therapy clients call him 'Dr Theo'.

29. Dr Soutzos accepted that his behaviour towards Patient A, Patient B and Patient C was likely to have severely compromised their trust of other psychiatrists or General Practitioners (GPs). He said that he feels awful about it and that if similar events happened to his close family members, he would be *'so angry'*. Dr Soutzos also accepted that his behaviour was likely to also have significantly impacted upon the families of Patient A, Patient B and Patient C in their dealings with the medical profession.

30. Dr Soutzos told the Tribunal that he had been working as a therapist since his erasure in 2010. He explained that his practice had grown as all his clients approached him through the personal recommendations of others. He told the Tribunal that there had been no complaints about him as a therapist and no concerns raised about his adherence to professional boundaries. Dr Soutzos explained that he has continued to provide therapy to patients in their homes or via video. Dr Soutzos explained that he is not affiliated or registered with any professional body as a therapist. He said that he had been advised to join such a body, and engage in supervision, at the most recent Maintaining Professional Boundaries course he attended. However, he had been advised not to pursue this before this hearing to avoid it being considered that he had done so only to support his application. Dr Soutzos told the Tribunal that he had developed insight and remediated and had *'come through'* his journey and released any residual anger.

31. In addition, the Tribunal heard oral evidence, via video link, in support of Dr Soutzos from:

- Patient X, a therapy client of Dr Soutzos, testimonial dated 28 July 2022;
- Patient Y, a therapy client of Dr Soutzos, testimonial dated 19 July 2022;
- Patient Z, a therapy client of Dr Soutzos, character witness statement dated 2 August 2022.

32. All three character witnesses confirmed that Dr Soutzos had made them aware that he was not able to practise as a registered and licenced medical practitioner either before or during their first consultation. Each was aware of the previous findings made against Dr Soutzos, but had varying degrees of understanding about the nature of the patients (that they were young and vulnerable) and how Dr Soutzos's behaviour had been characterised (as predatory) and that Dr Soutzos had also been found to have been dishonest.

33. All three character witnesses confirmed that Dr Soutzos appropriately adhered to professional boundaries at all times in their therapeutic relationships with him. All said they would feel comfortable with, or in fact already had allowed, Dr Soutzos to treat their family members.

34. XXX

35. The Tribunal has taken into account all the documentary evidence provided by both parties. This evidence included, but was not limited to:

- Records of Determinations from the 2010 Panel, the 2016 Tribunal, the 2017 Tribunal and the 2018 Tribunal;
- Dr Soutzos's evidence provided to the 2018 Tribunal;
- CPD certificates and reflections from Dr Soutzos on Probity and Ethics in Practice, dated 7 June 2022 and Maintaining Professionalism – the Fourth Day, dated 28 July 2022;
- Positive testimonials were provided on behalf of Dr Soutzos from many of his therapy clients with various 2022 dates.

Submissions

<u>On behalf of the GMC</u>

36. On behalf of the GMC, Ms Fordham submitted that the GMC opposed Dr Soutzos's application for permission to make a further application for restoration. She submitted that there has been no material change of circumstances since Dr Soutzos's last application for restoration was refused in 2018 and his right to reapply was indefinitely suspended. She submitted that to grant Dr Soutzos's application in such circumstances risked going behind the decision of the 2018 Tribunal.

37. Ms Fordham submitted that Dr Soutzos's reliance on the importance of XXX. Ms Fordham submitted that Dr Soutzos's reflection that he has *'grown up'* had to be considered in the context of a consultant psychiatrist who had been practising for around 20 years, and had been a consultant for 11 years at the time of the 2010 Panel. To claim he has *'grown up'* she submitted, carries far less weight than it would do for someone at an earlier stage in their career. Ms Fordham went on to remind the Tribunal of the various points that Dr Soutzos had the opportunity to redeem his character. It was only following his erasure and two unsuccessful restoration applications that Dr Soutzos made proper efforts to remediate and develop insight by attending the three-day Maintaining Profession Boundaries course.

38. In respect of insight, Ms Fordham submitted that while Dr Soutzos's insight had perhaps been set out in more detail in these proceedings, it was no different from the insight set out to the 2018 Tribunal. Specifically, she submitted that Dr Soutzos's insight still focuses on the effect his actions have had on himself rather than the patients. She further submitted that there has been little or no attempt to apologise in full to the patients through appropriate channels. Further, she encouraged the Tribunal to regard the timing of Dr Soutzos's insight with the same cynicism as the 2018 Tribunal. XXX.

39. Ms Fordham referred to Dr Soutzos's reflective documents. She submitted that Dr Soutzos's insight has not extended to include the impact of what he did on Patient A, Patient B and Patient C. Further, he has not reflected on the impact of his decisions to defend his actions at the 2010 Panel, subjecting each patient to extensive cross-examination and accusations that they were fantasists and liars. She submitted that Dr Soutzos had much to say about XXX but had presented little consideration for the effect of the proceedings themselves upon the patients as a result of what he now recognises to be his own dishonesty.

40. Ms Fordham submitted that evidence of further CPD does not assist as Dr Soutzos's clinical skills and knowledge have never been in question. She submitted that the same applies to the additional testimonials provided on Dr Soutzos's behalf. She submitted that while the current testimonial witnesses have a fuller understanding of why Dr Soutzos was erased from the Medical Register, they have only had only accessed the 2018 Tribunal's determination, not the 2010 Panel's determination, which she suggested gives a fuller picture of the seriousness of his misconduct. Ms Fordham submitted that a number of the testimonials suggest that Dr Soutzos has shared, at some length, the impact that his erasure has had on him and, in some cases, the personal circumstances that led (in his view) to his misconduct thus inevitably evoking some sympathy from his clients. Ms Fordham submitted that this represented a troubling power imbalance.

41. Turning to the character witnesses who gave evidence to the Tribunal, Ms Fordham submitted that it was of note that Patient Y and Patient Z are both professional, robust people who have chosen to access private therapy with Dr Soutzos following their own careful research and personal recommendations from others. She submitted that this scenario was entirely different from that of an NHS patient, perhaps someone of a similar demographic to Patient A, Patient B or Patient C, who would not been informed and not necessarily have any choice, in being treated by a psychiatrist who had previously been found to have used predatory grooming behaviour against three vulnerable female patients and abused his position of trust to exploit them. If those patients while being treated by Dr Soutzos discovered his history, the effects, she submitted, could be catastrophic. She submitted it is different when patients have the ability and financial means to choose to engage with Dr Soutzos.

42. Ms Fordham submitted that the passage of time does not assist in this case as the principle objection to Dr Soutzos's restoration to the register concerns the reputation of doctors as a whole and maintaining public confidence in the profession. She stated that it is well-established that certain types of misconduct are harder to remediate than others, such as dishonesty and sexual misconduct. Both elements are present in Dr Soutzos's case.

43. Ms Fordham submitted that to grant Dr Soutzos's application would undermine the overarching objective. She submitted that need to protect and promote and maintain public confidence in the profession and to promote and maintain proper professional standards and conduct for the members of the profession would preclude Dr Soutzos's restoration to the register. As a psychiatrist, Dr Soutzos, as a senior doctor in unrestricted practice, would be in a position where patients would expect to be able to have a high level of trust in him. The facts found against him would mean that this trust would be misplaced or, at the very least, that the confidence of patients who put their trust in him would be significantly affected if they were to later discover the facts of the misconduct. Similarly, fellow members of the profession would have good reason to have real concerns about his professional standards if they were to refer patients to him and then discover the details of the findings against him. In all the circumstances, Ms Fordham submitted that any future application for restoration would therefore, if a Tribunal were to actively pursue the overarching objective, be bound to fail.

<u>On behalf of Dr Soutzos</u>

44. On behalf of Dr Soutzos, Mr Geering reminded the Tribunal that it is not determining an application for restoration. Rather, it is determining an application for permission to apply for restoration. He submitted that the test (agreed by both parties) to apply was whether there was a realistic prospect of Dr Soutzos being restored. He submitted that this was not a high threshold and that in Dr Soutzos's case, the threshold was plainly met. Mr Geering submitted that the ultimate merits of Dr Soutzos's case, his insight and reflection, should be considered at a full restoration hearing.

45. Mr Geering submitted that there had been a number of changes in circumstance since the 2018 Tribunal. He submitted that if Dr Soutzos's insight has materially developed, which is a change in circumstance. If he has practised with vulnerable patients for a further four years without issue, undermining the risk of repetition, that is a change. If he has grown, developed and matured, that is a change in circumstances. Such changes, he submitted, warrant the right to apply for full restoration hearing.

46. Mr Geering submitted that the GMC argue that Dr Soutzos's conduct is just too serious to ever warrant restoration. He submitted that if the GMC was right, any previous consideration of insight and reflection was unnecessary. He submitted that not one of the three Tribunals hearing Dr Soutzos's restoration applications determined the case on that basis and that it would have been wrong to do so.

47. Mr Geering submitted that Dr Soutzos presented a risk to patients because he exercised a position of trust, and he exploited a therapeutic relationship to answer his own emotional need. He submitted that it was a striking feature of this case that having been erased from the medical register this had not removed Dr Soutzos's ability to exercise a position of trust, over the emotionally vulnerable, as part of a therapeutic relationship. He submitted that it was of the highest significance that there had been no repetition of such conduct since. He submitted that Dr Soutzos has acted with integrity as a therapist and has helped patients enormously. Mr Geering referred the Tribunal to the wealth of testimonial evidence provided in support of Dr Soutzos to support his submission that Dr Soutzos has engaged in a positive course of conduct and there was no reason to suppose that would not continue if Dr Soutzos was restored. Mr Geering submitted that every year of blameless therapy to patients, without breaching professional boundaries, undermines the suggestion of a risk of repetition.

48. Mr Geering submitted that insight may mitigate against a risk of repetition, as it is a way to gauge risk. He submitted that such a gauge for risk was not required in this case, as Dr

Soutzos has acted safely for a decade. Mr Geering stated that Dr Soutzos's position has changed since his case was first determined. He suggested this was because Dr Soutzos has changed. He submitted that such change cannot be a basis for criticism. Mr Geering submitted that the Dr Soutzos before the Tribunal accepted that his behaviour to Patient A, Patient B and Patient C was appalling. He submitted that Dr Soutzos has gone deeper in his reflections, looking at flaws in his character to explain why he acted as he did. Mr Geering submitted that Dr Soutzos has wrestled with understanding his actions and his nature, which is to his credit and represents a significant advance since his 2018 restoration application.

49. Mr Geering submitted that Dr Soutzos's explanation of the impact XXX. He submitted that while Dr Soutzos has been XXX. He submitted that these are powerful factors for Dr Soutzos. In particular, XXX has enhanced his empathy, as demonstrated in the testimonials from therapy clients. Mr Geering submitted that it cannot be right to dismiss Dr Soutzos's introspection because he previously acted appallingly.

50. Mr Geering submitted that if the passage of time left Dr Soutzos unrepentant, and the same arrogant man he was before – of course, there could be no restoration. If, however, it has shown him to be a kind and caring family man, with a thriving practice, introspective and alive to the need to make amends – then that is a material change in circumstance. It is absurd to say the profession is nonetheless barred to him.

51. Mr Geering reminded the Tribunal that Dr Soutzos has been open about his past misconduct with his therapy clients though under no obligation to do so. He submitted that he has been open with the Tribunal, admitting latent feelings of anger, when he did not need to and there was no evidence of such emotion aside from his own admission.

52. Mr Geering acknowledged that while Dr Soutzos sees his therapy clients in their own homes, it is not the location that matters, it is the person. He reminded the Tribunal that Dr Soutzos did not commit his misconduct on home visits, he did so in clinic. He submitted that Dr Soutzos has strived to create a therapeutic space wherever he sees a patient and imposes strict boundaries to do so. He submitted that Dr Soutzos's actions are not outside of the guidance not to treat patients in their homes because home visits are a standard part of clinical practice. The guidance refers, Mr Geering suggested, to not seeing patients socially, not seeing them outside of the therapeutic space that Dr Soutzos creates.

53. Mr Geering submitted that Dr Soutzos has not overshared with patients. He submitted that Dr Soutzos has shared personal matters where doing so assists the therapeutic

relationship. It reassured them. It drew on his own lessons regarding professional boundaries. He submitted that there was nothing gratuitous in that. Nothing which goes beyond a desire to help patients. Mr Geering submitted that seeking testimonials from patients does not exploit a power imbalance. Appraisals often have patient feedback. He noted that such criticism had not been raised at Dr Soutzos's previous hearings and reminded the Tribunal of Patient Z's evidence that he volunteered his own evidence.

54. In assessing risk, Mr Geering submitted that the Tribunal should:

> *'Look then at his safe practice –*
> *Look at the regard he is held in by people fully aware of his misconduct –*
> *Look at his current state of reflection –*
>
> *He does not present a risk of repetition. But that ultimately is not the test for you. There is a realistic prospect of saying he presents no risk. He should be able to make his case at a full hearing.'*

55. Mr Geering submitted that while the public would have been appalled at Dr Soutzos's misconduct, he had now been erased for 12 years. He submitted that a clear message has been sent out to the public, it could be in no doubt how seriously this conduct is taken. He submitted that the public would see how Dr Soutzos has acted since his erasure, that he has been practising therapy safely, is an excellent therapist who has not hurt anyone, has not acted dishonestly or breached any boundaries. He submitted that the public would see that Dr Soutzos has the potential to be an excellent doctor. Given his insight and reflections, Mr Geering submitted that there was no basis for saying that the public interest inevitably would require Dr Soutzos to remain erased.

56. Mr Geering asked *'Would someone be concerned if he was on the register knowing what he did in 2010?*'. He submitted that this however, was not the question. He submitted that the question was now *'How would they feel knowing who he is in 2022?'*. Mr Geering submitted that if Dr Soutzos has gone through the process set down by the GMC and was deemed safe – the public would not be aggrieved by his registration. Mr Geering submitted that Dr Soutzos's case warrants full and anxious consideration at a restoration hearing. Permission to proceed to that hearing does not guarantee acceptance, it only raises the possibility. Mr Geering submitted that the threshold for Dr Soutzos to make his case at a restoration hearing is well met.

The Tribunal's Approach

57. The Tribunal accepted the advice of the Legally Qualified Chair. Namely:

'This is an application for a review of an order made in July 2018 for indefinite suspension made pursuant to s41(9) Medical Act 1983. The application is made pursuant to s41(11) of the same Act which allows the applicant to apply for a review of the s41(9) order after at least 3 years has elapsed since the making of the s41(9) order. If the s41(11) application is successful the applicant may then apply under s41(1) to be restored to the medical register.

There is no legal test set out in the Act for a s41(11) application. It was agreed by the parties and the Tribunal that the appropriate test is whether there was a reasonable prospect of Dr Soutzos making a successful application under s41(1) to restore himself back to the medical register. There is GMC guidance on the realistic prospect test albeit not in the context of this particular kind of application. It was agreed that this guidance nevertheless was helpful in stating there needs to be a genuine rather than a remote or fanciful possibility of a successful s41(1) application.

The Tribunal must have regard to the overarching objective (s41(12)). The overarching objective is the protection of the public and includes protecting, promoting and maintaining the health, safety and wellbeing of the public, promoting and maintaining the public's confidence in the medical profession, and promoting and maintaining the proper professional standards of the profession.

Section 41(6) provides that the Tribunal when considering a s41(1) application shall require an applicant for restoration to provide such evidence as they direct as to his fitness to practise; and they shall not give such a direction if that evidence does not satisfy them. By implication for a s41(11) application it is for Dr Soutzos to demonstrate that there is a reasonable prospect of him making a successful s41(1) application.

The case of Gosai v GMC [2003] UKPC 31 reviewed the power of Tribunals to make s41(9) orders and concluded that the power was one that was not restricted to exceptional cases or to very clear cases or to unusual cases. A Tribunal could take account of the public interest and also to those affected by repeated applications e.g. victims and their families. A Tribunal could weigh the real efforts made by the doctor

to show fitness to practice but these could be outweighed by other factors such as the seriousness of the misconduct and any lack of insight. The Tribunal should apply Bolton v Law Society [1994] 1 WLR 512 ('Bolton') whereby the wider interest of the collective reputation of the medical profession and confidence in it could outweigh personal mitigation. In GMC v Chandra [2018] 1 WLR 1140 ('Chandra') which had facts not dissimilar to this case, the Court stated that it found it hard 'to imagine any feature in relation to a psychiatrist which goes entirely to the essence or heart of his role as a medical practitioner as the entitlement of each and every patient (vulnerable or not) to be entirely confident in the sexual probity of their physician.' The Court quoted the Bolton case which stated that if a member of the public submits himself or herself to a physical or mental examination or consultation by a doctor he or she is ordinarily entitled to expect that the doctor is a person whose trustworthiness and sexual integrity is not and has never been seriously in question.

In relation to s41(1) applications the Tribunal should have regard to the 'Guidance for medical practitioners tribunals on restoration following disciplinary erasure' ('the Guidance'). By implication the Tribunal should also have regard to that guidance when considering the s41(11) application. The Guidance points to particular factors the Tribunal should consider:

a) *The circumstances that led to the erasure. Note: the doctor cannot ask the Tribunal to reconsider the facts proved since in the absence of a successful appeal the previous Panel and Tribunals' findings are binding and final;*
b) *The reasons given for the erasure;*
c) *Whether the doctor has insight into the matters that led to the erasure;*

d) *What the doctor has done since the doctor's name was erased;*
e) *The steps taken by the doctor to keep the doctor's medical knowledge and skills up to date and the steps take to rehabilitate professionally and socially.*

There is no priority accorded by law to any one of those factors individually, they are all factors that the Tribunal must consider.

The test to be applied by Tribunals when considering if a doctor 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?' In Chandra, the Court of Appeal stated

that the Tribunal must 'first have considered with care all of the evidence of remediation against the backdrop of the matters which had led to erasure and made findings in that respect. Having made positive findings….they would then have…stepped back and balanced those findings against each of the three limbs of the overarching objective' to satisfy themselves that when considering the case overall, including the length of time which had elapsed, that the restoration of the doctor would 'promote and maintain public confidence and proper professional standards so that, notwithstanding the serious nature of the original misconduct, the overarching objective would be achieved'.

The Guidance goes on to advise that it will be important for the Tribunal to assess whether the doctor has demonstrated insight into the findings that led to their erasure. The Guidance sets out that it is crucial that a doctor has genuine insight into what went wrong and appreciates what could have been done differently. They should also understand how they could act differently in the future to avoid similar concerns occurring again. Evidence of the doctor's current level of insight will be a significant factor in assessing the risk the doctor may repeat their previous misconduct or poor performance. Oral evidence from the doctor will generally allow the Tribunal to better assess the doctor's level of insight than relying on written statements as the Tribunal can ask questions to address specific concerns about the doctor's fitness to practise.

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*

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

a) *been open and honest about and admitted their wrongdoing*

b) *apologised fully*
c) *undertaken appropriate remediation.*

Remediation is where a doctor actively addresses concerns about their behaviour, skills, performance or health. Remediation can take a number of forms and, where successful, will weigh in favour of allowing restoration. For remediation to be judged successful it must be focused on activities that reduce the level of risk posed to patients, members of the public and to public confidence in the profession from allowing the doctor to return to practice. Efforts to remediate should be driven by the doctor with support from others as appropriate.

When assessing remediation in restoration cases, the Tribunal should consider the following questions:

a) *Are the previous findings/any new concerns about the doctor's behaviour, skills, performance or health remediable?*
b) *Have the findings about the doctor's behaviour, skills, performance or health been remedied?*
c) *Are the previous findings about the doctor's behaviour, skills, or performance likely to be repeated?*

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*

The Guidance provides that it can be more difficult to demonstrate sufficient remediation in cases involving serious behaviour such as dishonesty and/or sexual

misconduct and in cases where the doctor's behaviour towards patients, colleagues or other individuals in the workplace suggests underlying problems with their attitude.

In assessing whether the concerns are likely to be repeated, the Tribunal should consider:

a) *whether there was a pattern of similar concerns*
b) *the environment in which a doctor has been working since their erasure where a doctor has been working in a similar environment to where the concerns arose and has been exposed to situations when there was a risk of repeating the concerns, the absence of repetition will be relevant*
c) *the circumstances giving rise to the concerns – if the concerns arose in unique circumstances which are themselves unlikely to be repeated, then, it may suggest that the risk of repetition in the future is reduced*
d) *what steps a doctor has put in place to avoid the circumstances arising again and/or to cope with those circumstances, should they arise again*
e) *whether the doctor has an otherwise positive professional record, including an absence of any other concerns from past or current employers or another regulatory body*

The Guidance states that where a doctor's past behaviour is so serious that it remains capable of undermining the trust that the public places in doctors, it is unlikely that restoration will be in line with the overarching objective. This applies to behaviour both inside and outside of a doctor's professional practice. There will be some cases where, even if insight and remediation have been fully demonstrated and there has been a significant lapse of time since erasure, public confidence in the profession would be undermined by allowing the doctor to practise again. In Chandra, the Court of Appeal stated that while the passage of time is a matter of considerable importance and must be properly weighed in the balance on an application to restore there is a striking difference between cases involving clinical errors or incompetence and matters of dishonesty and sexual misconduct which applies equally at both the sanctions and restoration stage. The Court quoted the supporting judgement in Yeong v GMC [2010] 1 WLR 548. Tribunals should ask whether an ordinary, well-informed member of the public who is aware of all the relevant facts would be concerned to learn the doctor had been allowed to return to practice. It should be noted that in Chandra while the Court quashed the decision to restore the doctor it remitted the matter back to the Tribunal to reconsider rather than determine that he could not be restored.'

The Tribunal's Decision

58. In relation to the current application the Tribunal considered whether there was a reasonable prospect of Dr Soutzos making a successful application under s41(1) to restore himself back to the medical register. The Tribunal considered whether there is a genuine rather than a remote or fanciful possibility of a successful s41(1) application.

59. The Tribunal considered all of the following factors presented in support of Dr Soutzos's application:

1) He had attended the following courses since the 2018 Tribunal:
    a. In June 2022 Probity and ethics in practice; and
    b. In July 2022 Maintaining professionalism – the Fourth Day.

2) His oral evidence admitting that the misconduct found by the 2010 Panel was entirely unacceptable, that he did an appalling thing, that he was disgusted with his behaviour and that he had no excuse. He agreed that trust in patient care was core and that he had destroyed patient trust. There was no evasion or failure to admit wrongdoing or refusal to answer questions as in 2016 nor being unclear and evasive as in 2017.

3) The further lapse of time since the misconduct from 1999 to 2006, the 2010 Panel and more recently the 2018 Tribunal which:

    a. allowed more time for reflection and for Dr Soutzos to continue his journey;
    b. XXX;
    c. XXX;
    d. to demonstrate that he was no longer a risk since there was no evidence of further since the misconduct between 1999 and 2006 and since the 2010 Panel; and
    e. that he was now uncompromising about professional boundaries. Dr Soutzos stated that professional boundaries 'set you free'.

4) His insight and remediation could no longer be described as fledgling given the four years that have elapsed since this description from the 2018 Tribunal.

5) The written testimonials in the bundle and the oral and written evidence (again in the bundle) from Patient X, Patient Y and Patient Z. This evidence was provided by patients with varying degrees of awareness that Dr Soutzos had committed serious misconduct and why he had been erased from the medical register. This is in contrast to the situation in 2018 when most of the testimonials were provided by those with no or little awareness of the misconduct and detailed reasons for his erasure. Dr Soutzos gave evidence that he told all his patients that he had no licence, had had inappropriate relations with patients and that his patients should google him to find out the reasons for his erasure.

6) The written testimonials and oral and written evidence of Patient X, Patient Y and Patient Z were uniformly positive and indeed glowing about Dr Soutzos in terms of his skills and the outcomes for those patients.

7) The written testimonials and oral and written evidence of Patient X, Patient Y and Patient Z raised no concerns about boundaries and any aspect of the way in which Dr Soutzos worked.

8) In terms of the risks of home visits Dr Soutzos contended that location was not the key to safe practice but that it was the application of clear boundaries that ensured safe practice e.g. having a single place for therapy.

9) The general proposition that a good person who does awful things can be remediated. Dr Soutzos argued that he should be given the opportunity after such a long period of no repeated misconduct and of sustained good practice as a therapist to apply to go back on to the medical register. The long period of no repeated misconduct showed that he was no longer a risk to patients or to the public. He argued that he had demonstrated insight into his past misconduct and had remediated via his long period of hard and excellent work as a therapist.

10) The s41(11) test was a relatively low bar and that given all of the above the Tribunal could not reasonably say that a s41(1) application had a remote or fanciful prospect of success.

60. The Tribunal considered the following factors which were presented against Dr Soutzos's application:

1) Dr Soutzos's insight and remediation continued to centre around his journey. XXX. He continued to fail to show sufficient empathy for Patient A, Patient B and Patient C and try to understand the devastating impact on them and their families of his misconduct. He recognised that there was a long term impact for them and felt awful about that. However, in none of the mass of evidence was there an acknowledgment of the impact on Patient A, Patient B or Patient C e.g. of calling them liars and fantasists and obliging them to undergo the ordeal of giving evidence. Nor was there any suggestion as to how an apology could appropriately be conveyed to them. He could not remember important details of his behaviour towards Patient A when cross-examined. He failed to demonstrate this important aspect of insight in terms of empathy for his victims.

2) Dr Soutzos's insight largely remained as set out in the 2018 Tribunal determination.

3) He still tended to blame others e.g. he blamed his barrister for not challenging the remarks in the 2018 Tribunal judgement expressing concern about home visits to female patients rather than reflect on his own personal responsibility for that method of practice and the risks involved to himself and his patients.

4) He acted as a therapist without any professional support, oversight, supervision or appraisal. He produced no independent evidence from any professional body or from an approved supervisor to demonstrate independently the quality of his work and outcomes or his journey of insight. His learning was and remains self-directed and self-structured and not overseen by a professional body.

5) Dr Soutzos's case centred XXX understanding of his early life experiences which had caused him to behave so badly. The 2017 Tribunal had concerns about self-diagnosis and self-medicating which should have prompted him to consider how he could obtain independent verification or evidence to support his case.

6) The Tribunal took into account the following factors when considering the written testimonials and oral and written evidence from Patient X, Patient Y and Patient Z:

    a. there was a power imbalance in that they were patients being treated by Dr Soutzos so were partial rather than being objective;
    b. came from patients who had invested in Dr Soutzos for their treatment and recovery so colouring their perspective;

c. involved a degree of sharing his own personal information; and
d. were self-selected by Dr Soutzos.

7) The testimonials were provided from clients rather than as individuals who were professionals providing an objective opinion. For example, Patient Y is a consultant dermatologist, but gave unconvincing evidence, for example, by rejecting the description of Dr Soutzos as predatory when this was a clear finding of the 2010 Panel. She made exaggerated claims including that Dr Soutzos had been *'100 per cent immaculate'* over the last ten years. Patient X, Patient Y and Patient Z all initially described Dr Soutzos's sexual misconduct as inappropriate despite the 2010 Panel finding that it was deliberate, predatory and abusive which is materially different. There was a pattern of testimonials downplaying the misconduct found in 2010, for example, Patient W described Dr Soutzos's deliberate and predatory conduct as *'unwise and unacceptable decisions'*; Patient X described misconduct as *'inappropriate'*, Patient V described the misconduct as *'misguided'*; and Patient U as *'making mistakes'*.

8) His ignoring of the concerns raised in the 2018 Tribunal about him seeing female patients on their own in their homes.

9) XXX. Dr Soutzos did not describe any strategies that he could employ in dealing with future problems or adversity.

61. The Tribunal considered the application in light of the overriding objective. It reminded itself that a Tribunal considering a s41(1) application could weigh the real efforts made by the doctor to show fitness to practise but these could be outweighed by other factors such as the seriousness of the misconduct and any lack of insight. The Tribunal considered *Bolton* whereby the wider interest of the collective reputation of the medical profession and confidence in it could outweigh personal mitigation. It reminded itself that in *Chandra* which had facts not dissimilar to this case the Court stated that it found it hard to imagine any feature in relation to a psychiatrist which goes entirely to the essence or heart of his role as a medical practitioner as the entitlement of each and every patient (vulnerable or not) to be entirely confident in the sexual probity of their physician. That Court quoted the *Bolton* case which stated that if a member of the public submits himself or herself to a physical or mental examination or consultation by a doctor he or she is ordinarily entitled to expect that the doctor is a person whose trustworthiness and sexual integrity is not and has never been seriously in question.

62. The Tribunal reminded itself as to the test to be applied by Tribunals when considering if a doctor should be restored, which 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?'* The Tribunal considered the further explanation of that test in *Chandra* as set out in the relevant legal principles. The Tribunal reminded itself of the Guidance for s41(1) applications that it can be more difficult to demonstrate sufficient remediation in cases involving serious behaviour such as dishonesty and/or sexual misconduct and in cases where the doctor's behaviour towards patients suggests underlying problems with their attitude. It also reminded itself of the Guidance that where a doctor's past behaviour is so serious that it remains capable of undermining the trust that the public places in doctors, it is unlikely that restoration will be in line with the overarching objective. There will be some cases where, even if insight and remediation have been fully demonstrated and there has been a significant lapse of time since erasure, public confidence in the profession would be undermined by allowing the doctor to practise again.

63. In *Chandra*, the Court of Appeal stated in relation to a s41(1) application that while the passage of time is a matter of considerable importance and must be properly weighed in the balance on an application to restore there is a striking difference between cases involving clinical errors or incompetence and matters of dishonesty and sexual misconduct which applies equally at both the sanctions and restoration stage.

64. The Tribunal reminded itself that despite what was said in cases such as *Chandra* indefinite suspension is neither obligatory nor assumed in serious cases. It all depended on the circumstances of each case. It agreed with Dr Soutzos that it is possible for a doctor erased for the most serious misconduct to be restored back to the medical register in accordance with the overriding objective. There was no blanket ban or unsurmountable hurdle on restoration.

65. The Tribunal was concerned that Dr Soutzos disclosed that he shared some of his personal information because he felt that it assisted the therapeutic process. He did not provide any objective evidence that this was appropriate and/or recognised practice.

66. The Tribunal noted that, in contrast to other doctors who had been erased who sought independent professional help, joined professional bodies, arranged supervision by colleagues or more senior professionals and/or objective appraisal in order to persuade a Tribunal that they could practise safely and without risk and should be restored.

67. XXX

68. The Tribunal gave little weight to the testimonial evidence because of the following factors:

a. there was a power imbalance in that they were patients being treated by Dr Soutzos so were partial rather than being objective;
b. came from patients who had invested in Dr Soutzos for their treatment and recovery so colouring their perspective;
c. involved a degree of sharing his own personal information; and
d. were self-selected by Dr Soutzos.

69. The Tribunal also gave limited weight to the testimonials from Dr Soutzos's clients. These testimonials were provided as patients, rather than as individual professionals providing an objective opinion.

70. The Tribunal was unsure why Dr Soutzos chose to ignore the criticism from the 2018 Tribunal relating to home visits. The Tribunal noted he chose to self-police visits to patients in their own homes when an earlier Tribunal had highlighted that this was a potential risk to his clients and to himself. He highlighted in his reflective statement a case in which a home visit had gone wrong. The Tribunal did not fully accept his assertion that he had an ability to assess and avoid risk. It noted the example of him avoiding a hug by Patient X, but also noted that the great majority of the consultations with her were remote rather than in person.

71. The Tribunal was troubled by Dr Soutzos's contention that part of XXX. He produced no independent evidence XXX. The Tribunal was troubled by his lack of strategies for dealing with stress and his vague descriptors of how he maintained XXX. This appeared to the Tribunal to be an untested view and that the foundations of his resilience appeared flimsy.

72. Having carefully weighed the evidence, written and oral, and considered the submissions on law and evidence the Tribunal has concluded that the s41(9) order should not be reviewed or removed. It has found that Dr Soutzos does not have a realistic prospect of making a successful s41(1) application at the current time. The Tribunal is of the view that the prospects of a successful application are remote for the reasons given above.

73. The Tribunal considered that the following factors in its judgement made the prospects of a successful s41(1) application remote:

1) Insufficient evidence of any development of his insight in terms of victim empathy;

2) Insufficient evidence of any significant development of insight since 2018 Tribunal;

3) The lack of independent and objective evidence of Dr Soutzos's journey in terms of remediation and insight and in terms of assessing the quality and outcomes of his current practice;

4) The Tribunal only attributed limited weight to the testimonial evidence provided;

5) The Tribunal noted there being no evidence of any repeated misconduct since the events in questions. However, the Tribunal was unaware to whom a complaint might be made in the absence of registration or affiliation with an approved professional body.

6) The Tribunal considered that there remained a risk of misconduct because:

    a. Dr Soutzos's continued in ill-advised methods of work in terms of home visits to female patients; and
    b. Dr Soutzos's support for his current self-reported status of being in a good state and being more rounded having what the Tribunal considered a flimsy basis namely XXX.

7) For the reasons set out above, the Tribunal agreed with the 2018 Tribunal that there remained a risk of repetition.

8) As *Chandra* stated the passage of time carried less weight in cases of dishonesty and sexual misconduct.

9) The Tribunal found that in terms of the overriding objective, there remained concerns as to:

    a. a risk to patients as stated above;

b. the requirement to promote public confidence taking into account *Chandra* whereby for any Tribunal it remains hard to imagine any feature in relation to a psychiatrist which goes entirely to the essence or heart of his role as a medical practitioner as the entitlement of each and every patient (vulnerable or not) to be entirely confident in the sexual probity of their physician; and
c. promoting and maintaining the proper professional standards of the profession whereby the wider interest of the collective reputation of the medical profession and confidence in this case outweighed personal mitigation.

Conclusion

74. In conclusion, the Tribunal determined to reject Dr Soutzos's application to permit him to make a further application for restoration. Therefore, the direction to indefinitely suspend his right to make a further application for restoration remains in place.

75. In accordance with section 41(11) of the Act, Dr Soutzos may apply to the Registrar for a further view of this direction but not before three years from today's date.

76. That concludes the case.