

PUBLIC RECORD

Dates: 15/07/2024 - 25/07/2024

Medical Practitioner's name: Dr Toh WONG
GMC reference number: 6025142
Primary medical qualification: MB ChB 2001 University of Leicester

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

Summary of outcome

Suspension, 3 months.

Tribunal:

| | |
|--------------------------|------------------|
| Legally Qualified Chair | Mr Kenneth Hamer |
| Lay Tribunal Member: | Mrs Lorna Taylor |
| Medical Tribunal Member: | Dr Pavan Rao |
| Tribunal Clerk: | Ms Ciara Fogarty |

Attendance and Representation:

| | |
|--|---|
| Medical Practitioner: | Present, represented |
| Medical Practitioner's Representative: | Mr Andrew Colman, Counsel, instructed by Medical Protection |
| GMC Representative: | Mr Lewis Kennedy, Counsel |

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 18/07/2024

1. This determination will be handed down in private. However, as this case concerns Dr Wong's misconduct a redacted version will be published at the close of the hearing.

Background

2. Dr Wong qualified in 2001 from the University of Leicester Medical School and has been on the General Practitioner (GP) register since 2006. After qualifying as a GP, he worked as a locum for about two years before starting work in 2008 as a GP partner at the Westbank GP Practice, Devon (Westbank or the Practice). He became the senior partner at Westbank in 2021, where he continues to work. He has been a GP trainer for the Exeter GP vocational training scheme since 2011, although has not been assigned any trainees since August 2022.

3. The allegation that has led to Dr Wong's hearing can be summarised that between April 2016 to May 2017, whilst Patient A, a vulnerable person, was registered as a patient at Westbank, Dr Wong engaged in an improper emotional relationship with Patient A. It is also alleged that after Patient A ceased to be a patient of the Practice, Dr Wong engaged in an improper personal and/or financial relationship with Patient A between May 2017 and March 2019.

4. It is further alleged that between October 2018 and March 2019, Dr Wong made payments to Patient A totalling £10,000 with a view to stopping her from reporting him to medical authorities, including the General Medical Council (GMC).

5. The initial concerns were raised with the GMC on 5 October 2022 by NHS England (South West) following an NHS Investigation Report dated 26 August 2022 into concerns regarding the professional conduct of Dr Wong.

The Allegation and the Doctor's Response

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

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

1. At all material times:
 - a. Patient A was vulnerable due to mental health conditions and/or personal and economic circumstances; **Admitted and found proved**
 - b. you knew that Patient A was vulnerable. **To be determined**
2. Between 26 April 2016 and an unknown date in May 2017, Patient A was registered as a patient at Westbank GP Practice ('Westbank'), in which you were a GP Partner. **Admitted and found proved**
3. Between 26 April 2016 and an unknown date in May 2017, on one or more occasion you:
 - a. met with Patient A socially; **Admitted and found proved**
 - b. visited Patient A at her home for non-medical reasons; **Admitted and found proved**
 - c. visited Patient A at her place of work for non-medical reasons. **Admitted and found proved**
4. Between an unknown date in May 2017 and in and around 19 March 2019, on one or more occasion you:
 - a. met with Patient A socially; **Admitted and found proved**
 - b. invited Patient A to stay with you at your home; **Admitted and found proved**
 - c. hosted overnight stays by Patient A at your home; **Admitted and found proved**
 - d. invited Patient A to participate in and to share the profits of a business venture ('the Venture') involving a complimentary therapy conference; **Admitted and found proved**

- e. met with Patient A in person to discuss the Venture; **Admitted and found proved**
 - f. contacted Patient A by telephone to discuss the Venture; **Admitted and found proved**
 - g. contacted Patient A by text message to discuss the Venture; Admitted and found proved **Admitted and found proved**
 - h. bought and donated to Patient A a laptop computer for the purposes of the Venture. **Admitted and found proved**
5. By your conduct as set out at paragraph 3 above, you engaged in an improper emotional relationship with Patient A. **To be determined**
6. By your conduct as set out at paragraph 4 above, you engaged in an improper personal and/or financial relationship with Patient A. **Admitted and found proved**
7. Between 26 October 2018 and 20 March 2019, you made payments to Patient A totalling £10,000.00, with a view to stopping her from reporting you to Medical Authorities, including the General Medical Council. **Admitted and found proved**

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

The Admitted Facts

7. At the outset of these proceedings, Dr Wong, through his counsel, Mr Andrew Colman, made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (the Rules). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation admitted and found proved.

Witness Evidence

8. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Dr B, GP at Caen Medical Centre
- Ms C, Community Health Nurse
- Dr D, GP at Topsham Surgery
- Ms F, Programme Manager for Professional Standards
- Ms E, Head of Professional Standards NHS England South West

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

- Dr G, GP at Haldon House Surgery, by video link

10. Dr Wong provided his own witness statement, dated 25 April 2024, and also gave oral evidence at the hearing.

Documentary Evidence

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

- NHS England (South West) Investigation Report dated 16 August 2022
- Responses to Investigation Report dated June and September 2022
- NHSE Oral hearing outcome letters dated 4 November 2022 and 14 April 2023
- Medical record of Patient A various dates
- Further information referred by NHS England to GMC on 14 April 2023
- Documents written by Patient A dated 20 December 2021 and 12 January 2022
- Safeguarding referral dated January 2022
- NHS Review Outcome letter dated 14 April 2023
- Dr Wong's Reflections various dates
- Survey/feedback documents various dates
- Bundle of Testimonials various dates

The Tribunal's Approach

12. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Wong does not need

to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e., whether it is more likely than not that the events occurred.

13. The Tribunal had regard to the advice of the Legally Qualified Chair (LQC) which included but was not limited to the burden and standard of proof; that Dr Wong is a person of good character apart from the allegations giving rise to this matter; the need for separate treatment of each paragraph of the Allegation; the wording of the Allegation; and approach to the evidence.

The Tribunal’s Analysis of the Evidence and Findings

Paragraph 1(b) - Proved

14. In approaching paragraph 1(b) of the Allegation, the Tribunal first considered whether at all material times Patient A was vulnerable. The period covered by paragraph 1(a) is April 2016 to May 2019.

15. The Tribunal has borne in mind the dictionary definition of “vulnerable”. As the LQC reminded the Tribunal, vulnerable means capable of being mentally or physically influenced, or someone who can be easily or emotionally wounded or harmed.

16. The Tribunal has also borne in mind the GMC’s guidance document *Maintaining a professional boundary between you and your patient*, published 25 March 2013 and effective from 22 April 2013, which provides guidance on what the GMC considers vulnerable. The guidance states in a footnote:

“Some patients are likely to be more vulnerable than others because of their illness, disability or frailty, or because of their current circumstances (such as bereavement or redundancy). Children and young people younger than 18 years should be considered vulnerable. Vulnerability can be temporary or permanent.”

17. Similarly, the *Sanctions Guidance* under the heading “Vulnerable patients” states that some patients are likely to be more vulnerable than others because of certain characteristics or circumstances, such as presence of mental health issues, being a child or young person aged under 18 years, disability or frailty, bereavement, or history of abuse or neglect. These characteristics have been listed in the *Sanctions Guidance* at least as far back as March 2016. Rule 36 of the Rules also gives a list of witnesses who may be treated as vulnerable witnesses.

18. Patient A's medical records during the period between 26 April 2016 and May 2017, when she was registered as a patient at Westbank, include the following entries:

" 27-April-2016 [Dr H] Westbank Practice Westbank Practice

Attachment Attachment

Attachment Attachment

Read Code eMED3 (2010) new statement issued, not fit for work

Comment History. Moved from XXX– was caring for ***** with mental health issues – all getting on top of her and getting her down too – so moved to XXX – initially lived in XXX. Links with XXX – XXX – family in XXX – tell her to sort her self out PMH nil. psh _ nil. allergies. nil. Has interview at 1.15 – keen to go to it – Thinks she should have been on benefits but has not been. Agreed in view of interview – she wants certificate initially would like help with her mood, agreed rv when not needing to attend for interview. Doent think will get the job but feels would bew the right think to attend

Comment Plan med 3 givenrv sos. Das [Depression and Anxiety Service] leaflet given

Read Code eMED3 (2010) duplicate issued, not fit for work

10-May-2016 [Dr G] Westbank Practice Westbank Practice

Attachment Attachment

Read Code eMED3 (2010) new statement issued, may be fit for work

Comment History Complex consultation. Reports she has been struggling with depression for the last year+, but feels she is improving. Reports changes in her mental health since June 2014 when she was sexually assaulted. She then sold everything and went to live in XXX in and has also spent time in XXX. She returned to the UK in XXX 2015. She has been XXX. - During July 2014 she reports an episode of 'psychosis'- XXX. She has had a lot of experiences which she describes as more spiritual than feeling unwellfor example when in XXX she dreamt her ***** was unwell so flew back to UK, and he died unexpectedly. -She reports an awareness of other people's 'backgrounds' in particular their 'dark engery', like the reason they dirnk too much or why they are suffering. Hears a voice in her head telling her the information, no external voices. No thought broadcast. ??thought insertion -Mood varies. Occasional suicidal thoughts but knows she would not act on them. Struggles to leave the house. Can be spontaneous; last week suddenly decided to go to XXX but then realised half way there that she did not have the money so was stranded in XXX. -Is living in XXX. Struggling with day to day living, says

she needs help with simple daily life such as when to eat, when to brush her teeth and when to go to bed. Her ***** live in XXX. *****_***** in XXX. She does not have a working phone currently although is going to buy a charger so she can use her mobile. -Overall she states she thinks she is getting better but would like support, asking whether there is a service for in between mental illness and spirituality. Has started to work XXX although finds this overwhelming at times due to 'hearing' everyone's burdens. Is starting a new job in 3 weeks. Prior to the sexual assault, was running marathons, working, not having these problems.

Comment Examination Laughs a lots, appropriate eye contact. No obvious flight of ideas or knights move thinking.

Comment Diagnosis Possible PTSD. ?hypomania

Comment Plan To contact DAS. Phone Samaritans in emergency.

Review in 2 weeks, or sooner if needed.

12-May-2016 [Dr G] Westbank Practice Westbank Practice

Comment Comment -Discussed with TW, agreed would be a good idea for more urgent mental health team input as could be early psychosis. -Tried to call patient but phone not on. - Called STEP team, they will get back to me today as they are not in currently.

17-May-2016 [Dr G] Westbank Practice Westbank Practice

Comment Comment Email from STEP- they will aim to see her within 10 days if she is in their geographical area. Tried to call patient on mobile to notify of STEP referral but just goes through to voicemail. Message not left.

19-May-2016 [Dr G] Westbank Practice Westbank Practice

Comment Comment Email from [Ms J] at STEP- Has appointment with STEP on 27th May at 12noon at Wonford House Hospitalthey have sent a letter.

02-Jun-2016 Dr Toh Wong Westbank Practice Westbank Practice

Comment History Above issues all better.

Comment Plan Talked to her,all very coherent thoughts, but she is still anxious and having panic attacks, which makes her more anxious. We will see her later to discuss things. She has explored the wrong side of meditation it seems. She will come back later for me to do some hypnosis for anxiety as she is keen to explore this to get her back on track.

02-Jun-2016 Dr Toh Wong Westbank Practice Westbank Practice

Read Code Relaxation therapy

Comment History Reviewed. did some visualisation under hypnosis.

Comment Plan Relaxation therapy - see for review

15-Jun-2016 [Mr K] Westbank Practice Westbank Practice

Read Code eMED3 (2010) duplicate issued, not fit for work

Attachment Attachment

Attachment

Read Code eMED3 (2010) new statement issued, not fit for work

Comment History has been having issues with low mood and anxiety

recently. seeing TW and JH. she feels she is getting there, we talked a little bit about recent events. wanting another MED 3 as is at the job centre. have given her another med 3 for 2 weeks. she really benefitted from hypnosis and would like to have it again. no suicidal ideation, having more good days than bad days. talked about her protective factors.

Comment Plan MED 3 issued for 2 weeks. she is attending job centre today. I have suggested she gets in touch with TW for further hypnosis as she found it helpful.

20-Jun-2016 Dr Toh Wong Westbank Practice Westbank Practice

Comment History TEL: Could not attend surgery today. A little panic. However has some freelance stuff to do this week. see next week.

28-Jun-2016 Dr Toh Wong Westbank Practice Westbank Practice

Read Code eMED3 (2010) new statement issued, not fit for work
Attachment

Attachment

Read Code eMED3 (2010) new statement issued, not fit for work

Comment History She is almost a different person now. Feels everything is going to be ok now. Has applied for work.

Feeling more positive. Feels she needs a little more hypnotherapy to get her on her feet. Agreed see 2/52.

More positive.

11-July-2016 Dr Toh Wong Westbank Practice Westbank Practice

Comment History Discussed how much better she is. All problems better. No need anymore therapy now. All better.

Comment Plan If we need to do a report - she is now better. had Reactive anxiety to bereavement - *****. Now better. we did more relaxation therapy and now has job, looking forward

to her future.

12-July-2016 Dr Toh Wong Westbank Practice Westbank Practice

Comment History Reviewed - anxious that she will not get her job
XXX Advised as her problems are now completely resolved,

22-Nov-2016 [Dr I] Westbank Practice Westbank Practice

Comment Comment R/V of paper records - anxiety/depression in
past, last 18 m ago - nil else significant + nil that would
affect driving”.

19. The Tribunal has underlined above those parts of Patient A’s medical records which seemingly point towards Patient A being vulnerable. They include lack of any stable accommodation, struggling with depression, changes in mental health following a sexual assault, possible thought insertion, suicide thoughts, variations in mood, struggling with day to day living, impulsive behaviour, wanting support, possible hypomania (manic episode with psychotic feature), being anxious and having panic attacks, and anxiety to a bereavement. These are all characteristics of vulnerability and fall well within the dictionary definition of “vulnerable”, irrespective of the GMC’s examples of vulnerability. The Tribunal was in no doubt that Patient A was vulnerable during the period she was registered as a patient at Westbank.

20. Later entries in Patient A’s medical records and the evidence from witnesses who were not called to give oral evidence confirm that Patient A was vulnerable during the period between April 2016 and Dr Wong’s last contact with her in or around 19 March 2019. The Tribunal also notes that Dr Wong has admitted paragraph 1(a) of the Allegation which alleges that at all material times Patient A was vulnerable due to mental health conditions and/or personal and economic circumstances.

21. Dr Wong denies that he knew Patient A was vulnerable. The critical issue, therefore, in relation to paragraph 1(b) of the Allegation is whether the GMC has satisfied the Tribunal to the requisite standard of proof that Dr Wong knew Patient A was vulnerable. The Tribunal is concerned with determining subjectively the state of Dr Wong’s knowledge or belief as to the facts at the time. It is not a question of whether his belief was or was not reasonable, or whether he ought to have known Patient A was vulnerable, but whether his belief that Patient A was not vulnerable was genuinely held. In determining whether it was genuinely held, the reasonableness or otherwise of his belief is a matter of evidence and a matter for the Tribunal to decide.

22. Dr Wong accepted in evidence that when Dr G spoke to him about Patient A on 12 May 2016, he (Dr Wong) saw Dr G's detailed consultation note dated 10 May 2016 and that he also probably saw Dr H's initial consultation note dated 27 April 2016. Dr H was a partner in the Practice at the time. The entry for 12 May 2016 refers to an urgent referral to STEP (Specialist Team for Early Psychosis) and Dr Wong told the Tribunal that it was "quite concerning" what Dr G told him about Patient A. Dr Wong himself suggested the escalation of Patient A's care to STEP.

23. STEP's report dated 17 May 2016 (the Tribunal believe this to be a typographical error for 27 May 2016) said:

"Dear Patient A,

Many thanks for coming in to meet with me at Wonford House today following the referral I received from [Dr G], it was good to meet with you and I thank your for your time.

During the appointment, you informed me that you had XXX recent bereavements within your family and friends, and that this had made you feel somewhat stressed. You went to see your GP at this time, and were expressing some concerns, although on reflection, you do not believe that your experiences were as bad as they were perceived to be.

You described to me your spiritual thoughts and beliefs as a way of managing difficult emotions, periods of stress and traumatic events that you had experienced. You are aware that this may have come across in the 'wrong way' to your GP. When we explored this further, you described a feeling that everything in life is perfectly orchestrated, that you believed in synchronicity and that following the trauma in 2014, you have found God.

Your primary complaint is that you feel a little 'lost' currently, and that you become frustrated that your planning and organisation skills are not what they used to be. You do believe that you have had an episode of depression in the past, but that there are no current mental health difficulties for you.

You have informed me that you have applied for, and been offered a full time position as XXX, and that you are excited about starting that role. Ultimately, you would like to XXX.

We agreed that you would not benefit from a service from STEP at this time. I could not find any evidence to suggest that you may be suffering from a mental illness. I have advised that you make a self-referral to the Depression and Anxiety Service to see whether they can offer some support around your anxiety. I have also informed of

the service Transitions to which you can also self-refer and they are able to offer support in practicalities such as planning and organising. We agreed that, should you be become concerned in the future, that you would contact me again and I would arrange to see you for further assessment.

I wish you all of the best in the future,

Yours sincerely,
[Ms J]”

24. Dr Wong agreed that he had STEP’s report before him when he saw Patient A on 2 June 2016. He said that prior to his consultation with Patient A he would have reviewed her medical records. Dr Wong did not receive Patient A’s earlier medical records prior to her registration with Westbank until much later but he accepted that at the time of his initial consultation on 2 June 2016 he had Dr H and Dr G’s consultation notes and the letter from STEP.

25. The Tribunal found it difficult to understand why against this background Dr Wong did not appreciate Patient A was vulnerable. Indeed, Dr Wong said in evidence that he accepted that based on Dr G’s note, Patient A presented as vulnerable, adding “but not particularly vulnerable”. Dr Wong’s case is that he did not believe Patient A was vulnerable at the time because she was not suffering any mental incapacity. Dr Wong told the Tribunal that he understood vulnerability to mean a lack of capacity or having safeguarding issues.

26. The Tribunal found Dr Wong’s entry for the consultation with Patient A on 2 June 2016 instructive. The note reads: “Above issues all better”, but as Dr Wong agreed in evidence this did not mean all issues were now better but rather the “above issues” had improved, but not completely. The entry says that Patient A “is still anxious and having panic attacks, which makes her more anxious”. The note is followed by a later entry on the same day following Dr Wong treating Patient A with hypnosis for anxiety.

27. The Tribunal considered it unlikely that Dr Wong did not realise that Patient A was vulnerable at this time. Following the consultation on 2 June 2016, Patient A reported to Mr K at the Practice on 15 June 2016 that she was still not fit for work and had issues of low mood and anxiety recently. On 20 June 2016, when she saw Dr Wong again, Patient A reported having “a little panic”. Whilst Patient A reported on 28 June 2016 to be “almost feeling a different person now”, she felt she needed “a little more hypnotherapy to get her back on her feet”. On 11 July 2016 she reported to Dr Wong suffering a bereavement. In the view of the Tribunal, these entries all point towards Patient A still being obviously vulnerable. The GMC’s guidance provides that vulnerability can be temporary or permanent.

28. The Tribunal noted that when interviewed by NHS England (South West) on 19 August 2022, Dr Wong did not accept that Patient A was at any stage vulnerable when he was her GP. The record of interview says:

“TW stated that he declines to believe that Patient A was vulnerable when he was her GP: she had just had a psychiatric assessment. [W]hen she was registered with Westbank, the practice managed to get her back to living a functional life: at that point she was not psychiatrically unwell...”.

29. Earlier Dr Wong told the investigation that after meeting Patient A “she seemed like a normal person who had just gone through a bit of difficulty, and had then suffered a bereavement.” The Tribunal considers this a serious understatement of Patient A’s position, which does not fit with the narrative in the medical records.

30. Moreover, it is apparent that Dr Wong’s initial claim that he believed Patient A was not vulnerable was entirely due to his own misdiagnosis of her situation or misunderstanding of what vulnerable meant; or as Mr Colman put it in his submissions, Dr Wong was “applying the wrong test to the question of vulnerability at the time – conflating the issues of vulnerability and safeguarding”.

31. In seeking to deny paragraph 1(b) Dr Wong is relying in effect on his own error. He allowed his professional judgement to be clouded by the fact that STEP did not find Patient A to be suffering from a mental illness. However, STEP highlighted that Patient A had had XXX recent bereavements, had “difficult emotions” and periods of stress, and they advised Patient A to make a self-referral to the Depression and Anxiety Service (DAS) to see whether they could offer some support around her anxiety.

32. The Tribunal has borne in mind Dr Wong’s good character and the testimonial evidence, but consider it unlikely that Dr Wong did not realise Patient A was vulnerable. Dr Wong was an experienced GP and himself a GP trainer. He was a partner in a medical practice that had some 7,500 patients on its list and had experience of recognising when a patient was vulnerable, however “sheltered” Dr Wong claimed in evidence the Practice was. It is more likely than not that he knew at the time she was vulnerable, and has since convinced himself to the contrary.

33. The Tribunal recognises that Dr G said in his witness statement that looking at his notes from 10 May 2016, he did not get the impression that Patient A was vulnerable at the time he met her. In his oral evidence he based this on the fact that there was no evidence that Patient A lacked capacity and she had been able to travel abroad. However, Dr G himself

was sufficiently concerned to speak to Dr Wong to refer Patient A to STEP and advise Patient A to contact DAS. Shortly before in February 2016 Dr G had started his first period of training in a GP practice.

34. In all the circumstances, the Tribunal is satisfied that Dr Wong knew that Patient A was vulnerable and accordingly the Tribunal found Allegation 1(b) proved.

Paragraph 5 - Proved

35. The Tribunal went on to consider whether Dr Wong engaged in an improper emotional relationship with Patient A whilst she was registered as a patient at Westbank.

36. Dr Wong admits that between 26 April 2016 and May 2017, on one or more occasions he met with Patient A socially, visited Patient A in her home for non-medical reasons, and visited Patient A at her place of work for non-medical reasons (paragraph 3 of the Allegation). In his witness statement, Dr Wong sets out his recollection of contact with Patient A during this period. Dr Wong said:

“I first became aware of Patient A when a GP registrar at the Practice spoke to me about her in May 2016, following a consultation he had had with her on 10 May 2016. We discussed Patient A’s presenting symptoms, and I agreed there was a possibility these might indicate early psychosis and therefore a referral to the Specialist Team for Early Psychosis (“STEP”) was indicated.

Patient A had a STEP assessment on 27 May 2016, and no evidence was found to suggest she was suffering from any mental illness.

I first met Patient A at a consultation on 2 June 2016, when she presented with symptoms of anxiety and panic attacks. I considered that relaxation therapy might help, and made an appointment for Patient A to return to see me later the same day.

Following the second appointment on 2 June 2016, which took place in the early evening, I asked Patient A if she would like to go and get something to eat with me. We seemed to have a mutual interest in complementary therapies, and as I was going to go and get something to eat anyway, I thought Patient A might like to join me so we could discuss our shared interests.

Patient A further consulted with me on 28 June, and 11 and 12 July 2016, by which time her symptoms had resolved, and no further appointments were necessary.

I can see from my interview notes prepared during the NHS England investigation that I reported meeting Patient A for dinner sometime between July and December 2016, although I no longer have an independent recollection of that.

In December 2016, I went to visit Patient A XXX for approximately one – two hours, where she was working at the time at XXX. Patient A had texted me to tell me about her new job, and invited me to visit her. Patient A had sent a thank you note to me at the Practice earlier in the year, and included her telephone number. I had texted her so she had my number, and could let me know how she was getting on. As Patient A was living out of the Practice area by this time, I did not believe she would still be registered there. I later found out that in fact she had remained registered at the Practice until May 2017.

I visited Patient A again, several months later (in 2017) in XXX, and we had a meal together. I believe this was arranged after Patient A contacted me.”

37. Dr Wong accepts that it was inappropriate to invite Patient A to dinner in June 2016, and to visit her afterwards. However, he does not believe that the relationship was an emotional one.

38. The GMC’s guidance document *Maintaining a professional boundary between you and your patient* states that a doctor must not pursue a sexual or improper emotional relationship with a current patient. There is no suggestion that Dr Wong pursued a sexual or romantic relationship with Patient A. However, the GMC says it was an improper emotional relationship. The guidance document does not define what is meant by an improper emotional relationship. However, the word “emotional” is a word of common usage and means having or expressing mental agitation or feelings.

39. It is a matter for the Tribunal to determine whether on the evidence the GMC has satisfied it to the requisite standard of proof that Dr Wong engaged not only in an inappropriate or improper relationship with Patient A while she was a patient, i.e., a vulnerable patient, but one that was an improper emotional relationship.

40. The Tribunal noted that Dr Wong accepts that he befriended Patient A. In his reflective statement on professional boundaries dated November 2023, Dr Wong says:

“ At the time, I thought that befriending a patient and sharing common interests was acceptable. Now I realise that I was wrong and this was inappropriate and that I had breached professional boundaries. As a result of that so many disastrous consequences arose, the patient was affected and unclear of boundaries, it

subsequently led to patient suffering... let alone the effects it must have had on the patient herself.”

41. It is apparent that Dr Wong had a number of interactions with Patient A over the eleven-month period between June 2016 to May 2017 whilst she was his patient. In addition to taking Patient A to dinner following their first consultation on 2 June 2016, and again later between July and December 2016, Dr Wong chose to drive some 30 miles XXX to visit Patient A at her place of work, and visit her at her home. This was not a one-off casual meeting but a series of planned social events for non-medical reasons.

42. There were text messages or other communications between them and throughout Dr Wong took no steps to dissuade Patient A from contacting him. If anything, he encouraged the relationship. They had an affinity and a mutual interest in complementary therapies. It was more than a “loose” friendship that Dr Wong sought to convey in his evidence.

43. The Tribunal is in no doubt that this affinity and common interest in complementary therapies led to a friendship or bond between them which each appeared keen to foster. Dr Wong had some degree of emotional feelings towards Patient A, who was more than an acquaintance. The Tribunal had regard to Dr Wong’s evidence that at the material time he was isolated and wanted friendship. He wanted to befriend Patient A and made considerable efforts to do so. In his reflective statement following a professional ethics course in January 2023 Dr Wong accepted that he put his own interests ahead of those of his patient. Whilst the Tribunal has not received evidence from Patient A of how she viewed their relationship, it is apparent that she was somewhat on her own in XXX and, from Dr Wong’s evidence, the lack of boundaries affected her.

44. Notwithstanding Dr Wong’s evidence and his good character, the Tribunal determined that on the balance of probabilities the relationship was an improper emotional relationship. The Tribunal does not suggest that Dr Wong was lying in his evidence, simply that with the passage of time he has come to believe that the relationship was not an emotional one.

45. Accordingly, the Tribunal found paragraph 5 of the Allegation proved.

The Tribunal’s Overall Determination on the Facts

46. The Tribunal has determined the facts as follows:

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

1. At all material times:
 - a. Patient A was vulnerable due to mental health conditions and/or personal and economic circumstances; **Admitted and found proved**
 - b. you knew that Patient A was vulnerable. **Determined and found proved**
2. Between 26 April 2016 and an unknown date in May 2017, Patient A was registered as a patient at Westbank GP Practice ('Westbank'), in which you were a GP Partner. **Admitted and found proved**
3. Between 26 April 2016 and an unknown date in May 2017, on one or more occasion you:
 - a. met with Patient A socially; **Admitted and found proved**
 - b. visited Patient A at her home for non-medical reasons; **Admitted and found proved**
 - c. visited Patient A at her place of work for non-medical reasons. **Admitted and found proved**
4. Between an unknown date in May 2017 and in and around 19 March 2019, on one or more occasion you:
 - a. met with Patient A socially; **Admitted and found proved**
 - b. invited Patient A to stay with you at your home; **Admitted and found proved**
 - c. hosted overnight stays by Patient A at your home; **Admitted and found proved**
 - d. invited Patient A to participate in and to share the profits of a business venture ('the Venture') involving a complimentary therapy conference; **Admitted and found proved**

- e. met with Patient A in person to discuss the Venture; **Admitted and found proved**
 - f. contacted Patient A by telephone to discuss the Venture; **Admitted and found proved**
 - g. contacted Patient A by text message to discuss the Venture; Admitted and found proved **Admitted and found proved**
 - h. bought and donated to Patient A a laptop computer for the purposes of the Venture. **Admitted and found proved**
5. By your conduct as set out at paragraph 3 above, you engaged in an improper emotional relationship with Patient A. **Determined and found proved.**
6. By your conduct as set out at paragraph 4 above, you engaged in an improper personal and/or financial relationship with Patient A. **Admitted and found proved**
7. Between 26 October 2018 and 20 March 2019, you made payments to Patient A totalling £10,000.00, with a view to stopping her from reporting you to Medical Authorities, including the General Medical Council. **Admitted and found proved**

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

Determination on Impairment - 23/07/2024

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

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In particular, this included but was not limited to:

- Dr Wong’s response to the NHS England (South West) Investigation dated 17 September 2022;
- Dr Wong’s reflective statements dated June 2022, and following courses on Professional Ethics in January 2023 and Professional Boundaries in November 2023;
- Various patient and colleague feedback summaries for Dr Wong dated October 2022;
- Bundle containing 13 testimonials from Dr Wong’s professional colleagues and patients.

3. The Tribunal also received from Dr Wong a 45-page Defence Bundle at Stage 2, containing amongst other matters:

- Continuing Professional Development (CPD) courses and certificates, dated 2022 – 2023;
- Dr Wong’s Development and Restoration Plan, dated 17 March 2024;
- Dr Wong’s Reflections and learning on GMC Guidance and CPD courses, dated 2023 – 2024.

Submissions

On behalf of the GMC

4. Mr Kennedy, counsel, submitted that the facts admitted and found proved in this case amount to serious misconduct and that Dr Wong’s fitness to practise is impaired by reason of that misconduct.

5. Mr Kennedy referred the Tribunal to the relevant test for severity of misconduct in *Good medical practice* (‘GMP’) and the GMC and MPTS *Sanctions Guidance* (‘the Sanctions Guidance’). He also referred the Tribunal to the case law on impairment and the case of *CHRE v. NMC and Paula Grant* [2011] EWHC 927 (Admin) (‘Grant’) and submitted that two limbs of the statutory overarching objectives are principally engaged here, namely, the need to protect and promote public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

6. Mr Kennedy submitted that the fact that Patient A was vulnerable was an aggravating factor – in circumstances in which Dr Wong had been found to have known that she was vulnerable. Mr Kennedy submitted that having an improper emotional relationship with a

current, vulnerable, patient (paragraph 5 of the Allegation) was serious. Having an improper relationship with a former patient (paragraph 6 of the Allegation) was also serious.

7. Paragraph 7 of the Allegation involved making improper payments to prevent Patient A reporting the matter to any medical authorities. In his witness statement Dr Wong said that his sole concern at the time, was that any report of an improper relationship could have had a detrimental effect on XXX. Mr Kennedy submitted that paragraph 7 was so significant in itself for matters to still be at the serious end of misconduct.

8. Mr Kennedy submitted that whether Dr Wong's payments to Patient A are characterised as a bribe – or whether Dr Wong was being extorted/blackmailed – and regardless of whether his judgement was compromised because of his stressful domestic circumstances – this was still an inappropriate financial inducement, which he made to a former patient, who was, again, economically vulnerable (and vulnerable on other grounds too) – and was made with the intent or pre-empting (or derailing) a potential disciplinary investigation and regulatory action by the GMC against him.

9. In summary, Mr Kennedy submitted that the facts found proved amount to misconduct. Given that these were sustained acts of misconduct involving a course of conduct, this is at the serious end of misconduct. They require a finding of current impairment principally on 'public interest' grounds insofar that Dr Wong's conduct has brought the profession into disrepute; and has breached fundamental tenets of the profession. The relevant test set out in *Grant* is met and Dr Wong's actions have risked public confidence.

10. Mr Kennedy submitted that the mitigating effect of Dr Wong's otherwise exemplary licence to practise history and good character cannot displace matters being at the serious end of misconduct. Though there is extensive evidence of Dr Wong's insight and remediation, his original partial denial and minimalization are significant. His insight/remediation journey, through travelled, is not yet fully complete.

11. In conclusion Mr Kennedy submitted that, in determining current impairment, the evidence of Dr Wong's insight and remediation – even if deemed persuasive – is necessarily overridden or superseded by 'public interest' and public confidence considerations. Dr Wong's fitness to practise is thus currently impaired because of his serious misconduct.

On behalf of Dr Wong

12. Mr Colman, counsel, submitted that paragraphs 1 and 2 of the Allegation are relevant narrative context but cannot constitute misconduct in themselves. Although it remains a matter for the Tribunal, Dr Wong does not suggest that paragraphs 3 to 7 amount to anything but misconduct.

13. Mr Colman submitted that the conduct alleged in paragraph 7 is not aptly described as a bribe because it was not initiated by Dr Wong. These payments were instigated by Patient A. Dr Wong admits that he should not have given in to the pressure placed upon him to make the payments but there is a real difference in culpability between bribery and submitting to duress or blackmail. To cede to an improper demand when in fear for the XXX under threat of an exaggerated and inaccurate accusation cannot be considered as being in the same league of moral turpitude as the corrupt suppression of a genuine complaint.

14. On impairment, Mr Colman submitted that this was an isolated (albeit extended) episode of misconduct in an otherwise unblemished career of public service. It stems from an improper but not sexual or romantic relationship with a single and unconventional patient at a time when Dr Wong was himself at a low ebb. Those exceptional and unique circumstances will never recur. Even if something vaguely akin to these circumstances came to pass, Dr Wong's reaction would be diametrically different. He has learnt salutary lessons from this case and put additional support in place to protect himself and, thereby, also others.

15. Mr Colman submitted that the principles on remediation in *Cohen v. GMC* [2008] EWHC 581 (Admin) clearly apply. Both Ms F and Ms E speak of Dr Wong's remediation in glowing terms. Mr Colman said that the Tribunal will have seen a good deal of evidence of remediation, and may agree with those experienced assessments of the quality of Dr Wong's reflections and his deep commitment to avoiding any repetition. The fact that he initially lacked understanding and demonstrated a degree of frustration is no longer relevant. The fact that there has been no repetition in the period of over five years since these events is further evidence that there is no hint of any risk to public or patient safety.

16. Mr Colman submitted that the testimonial and feedback evidence the Tribunal has read demonstrates that Dr Wong is a very good doctor indeed. His practice feedback results are the highest in the Exeter area and among the top 50 practices in the country. Dr L, the practice safeguarding lead appointed by NHS England, South West, states: "I am very confident he can 1. appropriately identify vulnerable patients and 2. Manage the situation appropriately once patient has been identified as vulnerable."

17. Mr Colman submitted that it is not necessary to make a finding of impairment in order to maintain confidence in the medical profession and uphold proper standards of conduct and behaviour. A reasonable and well-informed member of the public, or a fellow professional, being well-informed, would know all that the Tribunal knows about Dr Wong's reputation and character. They would know that Dr Wong has undergone a rigorous disciplinary assessment of his fitness to practise, resulting in a finding of misconduct on his record, with the option of a warning, by way of sanction; as in *Uppal v. GMC* [2015] 1304 (Admin) at [34], echoed in *PSA v. NMC* [2017] CSIH 29, at [30].

18. Mr Colman also submitted that Dr Wong's practice has been closely monitored and effectively regulated at a local level by NHS England for the last two years and continues to be so supervised successfully, with his full engagement.

19. Accordingly, it is submitted that no finding of impairment is necessary in the public interest and the Tribunal is asked to find that Dr Wong's fitness to practise is not currently impaired.

The Relevant Legal Principles

20. The Tribunal reminded itself that at this stage of the proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

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

22. The Tribunal must determine whether Dr Wong's fitness to practise is impaired today, taking into account Dr Wong's conduct at the time of the events and any relevant factors such as insight, remediation and the risk of repetition, and the passage of time that has elapsed since these events.

The Tribunal's Determination on Impairment

Misconduct

23. In determining whether Dr Wong’s fitness to practise is currently impaired, the Tribunal considered whether in the case of each of the matters in the Allegation, the facts admitted or determined and found proved amounted to serious misconduct.

Paragraphs 1 and 2

24. The Tribunal agreed with Mr Colman that paragraphs 1 and 2 of the Allegation are matters of background and do not amount to misconduct. Nevertheless, they set the scene and show that throughout the period covered by the Allegation, that is, between April 2016 and March 2019, Patient A was a vulnerable patient and that Dr Wong knew that Patient A was vulnerable from his first knowledge of her in May and June 2016.

Paragraphs 3 and 5

25. These paragraphs cover the period when Patient A was a patient at the Westbank GP Practice, and when Dr Wong engaged in an improper emotional relationship with Patient A. In his witness statement Dr Wong admits that he had dinner with Patient A on 2 June 2016, that he met her again for dinner sometime between July 2016 and December 2016, that he visited her place of work in December 2016 and that he visited her again in 2017 at her home XXX. These were all for non-medical reasons.

26. In determining whether Dr Wong’s conduct during this period amounted to serious misconduct, the Tribunal has borne in mind paragraphs 53 and 65 of GMP and the GMC’s guidance document *Maintaining a professional boundary between you and your patient*, published 25 March 2013, effective from 22 April 2013.

27. The GMC’s 2013 edition of GMP states:

“53. You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.”

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

28. The guidance document on maintaining a professional boundary between a doctor and their patient repeats paragraph 53 of GMP. Under the heading “Vulnerability of the patient” the guidance document states:

“11. Some patients may be more vulnerable than others and the more vulnerable someone is, the more likely it is that having a relationship with them would be an abuse of power and your position as a doctor.”

29. The Tribunal was in no doubt that Dr Wong’s improper emotional relationship with Patient A as set out in paragraph 3 of the Allegation was in breach of paragraphs 53 and 65 of GMP and the GMC’s guidance document and thereby amounted to serious misconduct.

Paragraphs 4 and 6

30. These paragraphs cover the period after Patient A ceased to be registered as a patient at the Practice and when Dr Wong engaged in an improper personal and/or financial relationship with Patient A. This involved meeting Patient A socially, inviting her to stay at Dr Wong’s home, hosting overnight stays by Patient A at his home, and going into a business venture with her involving a complimentary therapy conference, and gifting her a laptop.

31. The guidance document on maintaining a professional boundary between a doctor and their patient extends to former patients as well.

“8 Personal relationships with former patients may also be inappropriate depending on factors such as:

a the length of time since the professional relationship ended (see paragraphs 9–10)

b the nature of the previous professional relationship

c whether the patient was particularly vulnerable at the time of the professional relationship, and whether they are still vulnerable (see paragraphs 11–13)

d whether you will be caring for other members of the patient’s family.

You must consider these issues carefully before pursuing a personal relationship with a former patient.”

“9 It is not possible to specify a length of time after which it would be acceptable to begin a relationship with a former patient. However, the more recently a professional relationship with a patient ended, the less likely it is that beginning a personal relationship with that patient would be appropriate.”

“10 The duration of the professional relationship may also be relevant. For example, a relationship with a former patient you treated over a number of years is more likely to be inappropriate than a relationship with a patient with whom you had a single consultation.”

“13 Whatever your specialty, you must not pursue a personal relationship with a former patient who is still vulnerable....”

32. At the time of the events in question, Patient A had only recently ceased to be a patient of the Practice. During the time she was a patient Dr Wong saw Patient A at Westbank on some four occasions for consultations and treated her with hypnosis for anxiety. Throughout the period between 2016 and March 2019, when Dr Wong last had contact with her, Patient A was vulnerable due to mental health conditions and/or personal economic circumstances (paragraph 1 of the Allegation) and the reasons stated in the Tribunal’s earlier determination on the facts.

33. The Tribunal was in no doubt that Dr Wong’s improper relationship with Patient A as set out in paragraph 4 of the Allegation was in breach of the GMC’s guidance document. His actions damaged the public’s trust in the medical profession and were contrary to paragraph 65 of GMP. It is well established that a doctor may be guilty of misconduct after a patient has ceased to be their doctor; see *De Gregory v. GMC* [1961] AC 957. In the present case, Dr Wong abused his former professional relationship with Patient A in such a way as to amount to serious misconduct.

Paragraph 7

34. Paragraph 7 of the Allegation relates to payments made to Patient A between October 2018 and March 2019 totalling £10,000. The GMC’s guidance document on maintaining a professional boundary between a doctor and their former patient is also relevant to this allegation.

35. In his witness statement Dr Wong said that Patient A requested payment of £10,000, which she considered she was owed in relation to the conference. She said that if he did not pay her, she would claim that he had made sexual advances to her. He said that even though he had never made any sexual advances, as he was XXX, he was concerned that any such claim could be very damaging. He said he felt he was being “blackmailed” and was “terrified” of any claim of an inappropriate relationship being made.

36. The Tribunal agreed with Mr Kennedy that paragraph 7 of the Allegation is serious misconduct on the part of Dr Wong whilst appreciating the circumstances under which the payment of £10,000 was made. The Tribunal accepted Mr Colman’s submission that the payments Dr Wong made to Patient A were not a “bribe” and there may have been some justification for Dr Wong to pay something to Patient A for her time and trouble in assisting with the business venture even though the conference made no profit. Nonetheless, Dr Wong admits that he made these payments to prevent Patient A reporting him to the GMC. He says that he felt any report could have a detrimental effect on XXX.

37. His actions damaged the public’s trust in the medical profession and were contrary to paragraph 65 of GMP. For the reasons advanced by Mr Kennedy, the Tribunal was in no doubt that Dr Wong’s actions amounted to serious misconduct.

Conclusion on misconduct

38. In summary, the Tribunal determined that Dr Wong’s actions in relation to paragraphs 3 to 7 of the Allegation individually and cumulatively amounted to serious misconduct.

Impairment

39. The Tribunal went on to consider whether Dr Wong’s fitness to practise is currently impaired by reason of his misconduct in relation to paragraphs 3 to 7 of the Allegation.

40. The Tribunal has borne in mind the GMC’s over-arching statutory objective in Section 1 of the Medical Act 1983, as amended, which states:

“(1A) The over-arching objective of the General Medical Council in exercising their functions is the protection of the public.

(1B) The pursuit by the General Medical Council of their over-arching objective involves the pursuit of the following objectives –

- a) to protect, promote and maintain the health, safety and well-being of the public,*
- b) 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*

c) to promote and maintain proper professional standards and conduct for members of that profession.”

41. The Tribunal also had regard to paragraph 76 of the judgment in the *Grant* case, in which Mrs Justice Cox set out the helpful and comprehensive approach of Dame Janet Smith in her 5th Shipman Report to determining issues of impairment. At paragraph 25.67 of the Shipman Report, Dame Janet identified the following as an appropriate test for panels considering impairment of a doctor’s fitness to practise.

“Do our findings of fact in respect of the doctor’s misconduct...show that his/her fitness to practise is impaired in the sense that s/he:

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

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

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

d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.”

42. In determining whether Dr Wong’s fitness to practise is currently impaired by reason of misconduct in relation to paragraphs 3 to 7 of the Allegation, the Tribunal considered the whole of the evidence before it, including that at Stage 1 of the proceedings and the additional bundle of evidence produced at this stage of the proceedings.

43. The Tribunal recognises and accepts that from an early stage, Dr Wong admitted most of the charges in the Allegation. The Tribunal did not hold against him in any way that he contested paragraphs 1(b) and 5 of the Allegation. The fact that the Tribunal found these paragraphs proved does not mean that Dr Wong lacks insight in relation to them. In his evidence Dr Wong agreed that he ought to have known that Patient A was vulnerable. He also agreed that he had engaged in an improper relationship with her whilst she was a patient at the Westbank GP Practice, whilst not accepting that it was an emotional one.

44. It is clear that Dr Wong has engaged substantially with remedial work and there is extensive evidence of his participation in CPD coursework. This has included courses on Maintaining Professional Ethics, Maintaining Professional Boundaries and Safeguarding

Adults and Children. Dr Wong has provided a number of reflective statements following these courses which show significant development of insight on his part.

45. In his witness statement Dr Wong said that he has now put in place measures and safeguards to ensure that he is able to talk to colleagues, family, and friends who are all aware of his circumstances such that he believes he is extremely unlikely to make similar poor decisions in the future. He says that he sincerely regrets his actions, and what they have meant for Patient A and professional colleagues and the reputation of the profession as a whole. He says that he knows that he can learn from these events and not repeat similar transgressions in the future. He said that if he ever found himself in difficult personal circumstances again, he now has the confidence through what he has learned to speak to others. He says that he will find ways to resolve them.

46. The Tribunal is satisfied that the likelihood of Dr Wong ever repeating the actions that have brought him before the Tribunal is very low. The Tribunal is satisfied that Dr Wong does not currently pose a risk to patient safety. The Tribunal is therefore satisfied that limb (a) of Dame Janet Smith’s four examples of impairment – unwarranted risk of harm to patients – does not arise in this case. Nor, of course, does limb (d), dishonesty, arise.

47. The Tribunal has considered carefully Mr Colman’s submission that it is not necessary to make a finding of current impairment in the public interest. The Tribunal was initially troubled whether it could make a finding of no current impairment in circumstances where Dr Wong continues to be subject to conditions imposed on him under the National Health Service (Performers Lists) (England) Regulations 2013 (‘the Regulations’). Regulation 10(1) provides that where NHS England considers it appropriate for the purpose of preventing any prejudice to the efficiency of the services which those included in a performers list perform, it may impose conditions on the practitioner’s continued inclusion in such a list. Dr Wong is currently subject to conditions under regulation 10 of the Regulations and has not applied for them to be further reviewed or removed under regulation 16 of the Regulations.

48. However, the Tribunal accepted Mr Colman submission that the fact Dr Wong is being monitored and regulated at a local level does not preclude this Tribunal from finding that his fitness to practise is not currently impaired. Dr Wong is being supervised at a local level to prevent any prejudice to the efficiency of the services he performs. By its decision letter dated 4 November 2022 NHS England concluded that it was not necessary for the protection of patients or members of the public to suspend Dr Wong from the National Medical Performers List.

49. The Tribunal’s role when considering the public interest is governed by sections 1(1A) and 1(1B) of the Medical Act 1983. The question the Tribunal has asked itself is whether, despite all of Dr Wong’s insight, remediation and low risk of repetition, and everything that has been said on his behalf, including his good character and testimonial evidence, the need to uphold proper standards of conduct and maintain public confidence would be undermined if a finding of impairment were not made in the particular circumstances of this case. This is the key question posed by Mrs Justice Cox in the case of *Grant* at paragraph 74. During the hearing this has been referred to as the ‘public interest’.

50. The present case concerns serious misconduct on the part of Dr Wong abusing the relationship between a doctor and their patient, or former patient. As Lord Upjohn remarked in *McCoan v. GMC* [1964] 1 WLR 1107 at 1112: “One of the most fundamental duties of a medical adviser, recognised for as long as the profession has been in existence, is that a doctor must never permit his professional relationship with a patient to deteriorate into an association which would be described by responsible medical opinion as improper.”

51. Whilst the *McCoan* case concerned sexual impropriety on the part of the doctor and the present case has none of those hallmarks, the Tribunal is in no doubt that limbs (b) and (c) of Dame Janet Smith’s examples of impairment apply here, along with sub-sections (b) and (c) of section 1(1B) of the Medical Act 1983.

52. Dr Wong’s conduct involved a (single) vulnerable patient with sustained acts of misconduct over an extensive period of time. He put his own interests before those of Patient A. Moreover, as Dr Wong accepted, his actions had a detrimental effect on Patient A. Despite Dr Wong’s personal circumstance at the time, and his contrition, the Tribunal considered that the need to uphold professional standards and public confidence in the medical profession would indeed be seriously undermined if a finding of current impairment were not made in the circumstances of this case.

53. Put simply, a finding of current impairment is justified on ‘public interest’ grounds and the case is too serious not to make a finding of current impairment.

Determination on Sanction - 25/07/2024

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

The Evidence

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

Submissions

3. On behalf of the GMC, Mr Kennedy submitted that the appropriate sanction is one of suspension. Mr Kennedy referred to the relevant paragraphs of the Sanctions Guidance (February 2024) (the ‘SG’), and the Tribunal’s determination on impairment.

4. Mr Kennedy submitted Dr Wong knew Patient A was vulnerable and that having an improper emotional relationship with a current patient, and an improper relationship with a former patient, are serious.

5. Mr Kennedy submitted that Dr Wong has expressed sincere remorse and regret, has taken responsibility for his actions and has apologised. Mr Kennedy submitted that Dr Wong is clinically competent and a well regarded doctor as evidenced by the testimonial evidence. He submitted that Dr Wong does not currently pose a risk to patient safety, and he referred the Tribunal to its impairment determination which stated the risk of repetition is very low.

6. Mr Kennedy stated that the Tribunal must begin by considering the least restrictive sanction. He submitted that given the nature of Dr Wong’s misconduct, it would be inappropriate to take no action. There were no exceptional circumstances that could justify such a sanction. It would not be sufficient, proportionate nor in the public interest to conclude this case by taking no action.

7. In respect of conditions, Mr Kennedy submitted that a period of conditional registration would not be sufficient or proportionate to satisfy public interest in light of the misconduct in this case. Mr Kennedy reminded the Tribunal that Dr Wong was being monitored, regulated and supervised under conditions at a local level but submitted that such conditions are not determinative. Initially Mr Kennedy submitted it would not be possible to formulate workable, measurable or appropriate conditions but later accepted that Dr Wong was subject to conditions imposed by NHS England. However, Mr Kennedy said that imposing conditions would not sufficiently mark the seriousness of Dr Wong’s misconduct.

8. Mr Kennedy submitted that the appropriate sanction is suspension at the upper end of the 12 month time scale, and that the GMC was not seeking erasure.

9. On behalf of Dr Wong, Mr Colman submitted there is a public interest in retaining the services of a competent and useful doctor, who presents no material danger to the public, and can provide considerable useful future service to society; see *Bijl v. GMC* [2001] UKPC 42, approved in *Bawa-Garba v. GMC* [2018] EWCA Civ 179 at [93].

10. Mr Colman referred to the SG and submitted that Dr Wong met the criteria for the imposition of conditions. Mr Colman reminded the Tribunal that Dr Wong is practising under conditions at a local level and that despite suspension being the initial suggestion before the Performers List Decision Panel (PLDP) of NHS England, they concluded that it was not necessary for the protection of patients or members of the public to suspend Dr Wong from the National Performers List. Instead, they imposed conditions.

11. Mr Colman submitted that the conditions Dr Wong is currently working under are actually working. They are appropriate, proportionate and measurable. Mr Colman submitted that whilst they did not bind or fetter the Tribunal, the Tribunal would need good reason to come to a different conclusion. The Tribunal could impose similar conditions to assure the wider public.

12. Mr Colman submitted that suspension would disrupt, if not destroy, the carefully organised and effective regime of regulated remediation arranged by NHS England. It would be a retrograde step. Its effect would not only be disproportionate but punitive.

13. Following questions from the Tribunal, Mr Colman and Kennedy both agreed that in the event of a direction that Dr Wong's registration be suspended under section 35D(2)(b) of the Medical Act 1983, NHS England would require to remove Dr Wong from the medical performers list by virtue of regulation 28(1)(b) of the NHS (Performers Lists) (England) Regulations 2013.

The Tribunal's Determination on Sanction

14. The Tribunal reminded itself that the decision as to the appropriate sanction to impose, if any, was a matter for it alone, exercising its own judgement. In reaching its decision on sanction, the Tribunal had regard to the SG, its findings on the facts, its determination on misconduct and impairment and the submissions made by Mr Kennedy and Mr Colman.

15. It bore in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it recognised that any sanction imposed may have a punitive effect. It reminded itself that in deciding what sanction, if any, to impose, it should start with the least restrictive.

16. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Wong's interests with the public interest whilst at the same time recognising

what was said in *Bolton v. Law Society* [1994] 1 WLR 512, namely that the reputation of the profession concerned is more important than the fortunes of any individual member.

17. The Tribunal also had regard to the GMC’s over-arching objective in section 1(1A) of the Medical Act 1983, in particular sub-sections (b) and (c) in section 1(1B) 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.

18. The Tribunal first considered and balanced the aggravating and mitigating factors in this case.

Aggravating Factors

19. The Tribunal reminded itself of paragraph 55 of the SG which states:

“55. Aggravating factors that are likely to lead the tribunal to consider taking more serious action include:

...

d. abuse of professional position (see paragraphs 142-150), particularly where this involves:

i vulnerable patients (see paragraphs 145-146).”

20. Paragraphs 142- 146 of the SG deal with abuse of professional position and vulnerable patients. Paragraph 142 states that trust is the foundation of the doctor-patient relationship, and paragraph 146 states that using a professional position to pursue an improper relationship with a vulnerable patient is an aggravating factor that increases the gravity of the concern and is likely to require more serious action against a doctor.

21. The Tribunal considered the vulnerability of Patient A as detailed in its earlier determinations to be an aggravating factor, and noted the persistent nature of Dr Wong’s misconduct that occurred over an extended period of time from June 2016 to March 2019.

Mitigating factors

22. Paragraph 25 of the SG states:

“25 The following are examples of mitigating factors.

a Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it. This could include the doctor admitting facts relating to the case, apologising to the patient (see paragraphs 42–44), making efforts to prevent behaviour recurring, or correcting deficiencies in performance or knowledge of English.

b Evidence that the doctor is adhering to important principles of good practice (ie keeping up to date, working within their area of competence), and of the doctor’s character and previous history. This could include evidence that the doctor has not previously been found to have impaired fitness to practise by a tribunal, a previous MPTS panel or by the GMC’s previous panels or committees.

c...

d Personal and professional matters, such as work-related stress.

e Lapse of time since an incident occurred.”

23. As stated in its determination on impairment, the Tribunal found Dr Wong has developed significant insight into his actions and noted that he has undertaken work to remediate his behaviour. Both contributed to the finding of a low risk of repetition. Moreover, Dr Wong has throughout co-operated with the GMC investigation and made substantial admissions at the start of the hearing. He has no previous disciplinary history.

24. The Tribunal further noted that the last incident of misconduct took place more than five years ago. There has been no recurrence of the behaviour since then. The Tribunal found that Dr Wong was facing difficult personal circumstances at the time, XXX.

25. Dr Wong has kept his knowledge and skills up to date and it is apparent from the extensive feedback from colleagues and patients, and testimonial evidence, that Dr Wong is well regarded and is a good caring doctor. He has throughout complied with the conditions of the PLDP of NHS England, South West.

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

No action

27. The Tribunal first considered whether to conclude the case by taking no action.

28. The Tribunal determined that, in view of the serious nature of its findings on the facts and impairment, it would be neither sufficient, proportionate nor in the public interest to conclude this case by taking no action. Taking no action requires exceptional circumstances. The Tribunal determined that there were no exceptional circumstances in this case, and therefore there could be no justification to conclude the case by taking no action.

Conditions

29. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Wong's registration.

30. As said by the LQC in his legal advice, the task of the Tribunal is to impose the least restrictive sanction that is appropriate and necessary in terms of the public interest. The sanction must not be excessive or disproportionate. The focus of the Tribunal is to judge the effect of Dr Wong's misconduct on public confidence and to identify a sanction that is proportionate in its judgement.

31. Paragraphs 80 and 81 of the SG state conditions may be appropriate in cases, amongst others, involving issues around a doctor's performance or shortcomings and conditions might include requirements to work under supervision. Dr Wong is currently working under conditions imposed by NHS England. The Tribunal recognised that Dr Wong satisfies paragraph 82 of the SG which states that conditions are likely to be workable where the doctor has insight, is likely to comply with them and to respond positively to them.

32. The conditions imposed on Dr Wong's inclusion on the Medical Performers List are concerned with the efficiency of the services which Dr Wong performs. The conditions currently are now as follows:

'1. You must not provide hypnotherapy or Neuro-Linguistic Programming (NLP) to patients during NHS GP sessions.

2. You must continue to participate in practice-wide safeguarding meetings and keep a record of your participation. You must provide this record to NHS England on request.

3. You must meet with the practice safeguarding lead ([Dr L]) on a quarterly basis to review a sample of 10 consultations from the preceding quarter. Five cases should be selected at random from patients identified as vulnerable and five further cases should

be selected at random from all patients you have seen that quarter. The purpose of this review is to obtain assurance that you appropriately identify and manage vulnerable patients, and to further your expertise in this area.

4. You must produce a summary of each quarterly meeting with [Dr L], and ask [Dr L] to approve the summary as an accurate record of your discussion. A copy of this summary should then be shared with NHS England.'

33. The Tribunal recognised that the imposition of existing conditions is a factor to be taken into account and is relevant to proportionality; see *Kamberova v. NMC* [2016] EWHC 2955. Moreover, where conditions are working well, and have been in place for some time, there is a strong argument for continuing them. See, for example, the case of *McDermott v. HCPC* [2017] EWHC 2899 where the court found that following compliance with interim conditions it was inappropriate to suspend the registrant's registration.

34. As an aside, the Tribunal noted that in her witness statement Ms E, the Head of Professional Standards at NHS England South West, and who sat on the oral hearing panel that took place on 4 November 2022, said that the panel concluded that it would impose conditions on Dr Wong, focusing on remediation including supervision in practice with a safeguarding lead. The decision letter states that Ms F, who presented the case for NHS England, said that one of the reasons that the PLDP initially proposed suspension was that they were not assured of Dr Wong's ability to identify and appropriately manage vulnerable patients. However, this concern had since been addressed, and the panel therefore concluded that it was not necessary for the protection of patients or members of the public to suspend Dr Wong from the National Medical Performers List.

35. The Tribunal considered that while Dr Wong has fully and commendably complied with conditions at a local level and he would be likely to comply with any conditions imposed by this Tribunal, the seriousness of the misconduct in this case is such that conditions would not be an appropriate or proportionate response. The PLDP's decision letter made no specific reference to the wider public interest, but assuming they had that in mind and a case of a breach of professional boundaries, this Tribunal has particularly borne in mind the need 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 as contained in section 1(1B) of the Medical Act 1983.

36. The Tribunal earlier determined that Dr Wong's actions in relation to paragraphs 3 to 7 of the Allegation individually and cumulatively amounted to serious misconduct, and that this was a serious case involving a (single) vulnerable person with sustained acts of

misconduct over an extensive period of time. Dr Wong put his own interests before those of Patient A, and his actions had a detrimental effect on Patient A.

37. Having heard evidence and submissions over a number of days, the Tribunal determined that despite Dr Wong's personal circumstances at the time, and his contrition, and all that has been said on his behalf, conditions would not be an appropriate sanction in this particular case.

Suspension

38. The Tribunal then went on to consider whether imposing a period of suspension would be appropriate and proportionate.

39. In so doing, the Tribunal had regard to the following paragraphs of the SG:

'91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

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

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

...

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

a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued

registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.

...

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

f No evidence of repetition of similar behaviour since incident.

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

40. The Tribunal determined that the misconduct in this case is so serious that a suspension is the least restrictive sanction required to maintain public confidence in the profession and to uphold proper professional standards and conduct. The Tribunal has previously set out its concerns about Dr Wong's behaviour.

41. The Tribunal considered that suspension would have the deterrent effect of sending a signal to Dr Wong, the profession and the public that his misconduct was unbecoming of a registered doctor.

42. The Tribunal found, in its determination on impairment, that Dr Wong has undertaken significant remediation and shown good insight such that there is a very low risk that the behaviour will be repeated in the future. The Tribunal was satisfied that there is sufficient evidence that Dr Wong has taken steps to mitigate his actions and prevent repetition of the misconduct. Taking all of the evidence, submissions and its own earlier conclusions into account, the Tribunal determined that a period of suspension would be an appropriate and proportionate sanction balancing Dr Wong interests with those of the public.

43. In the particular circumstances of this case, Dr Wong's actions fall short of being fundamentally incompatible with continued registration.

Length of suspension

44. In considering the appropriate period of suspension, the Tribunal was aware that the maximum period of suspension is 12 months. When considering the length of suspension, the Tribunal had regard to paragraph 100 of the SG which states:

“The following factors will be relevant when determining the length of suspension:

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

45. In its earlier determination on impairment, the Tribunal said that it was satisfied that Dr Wong does not currently pose a risk to patient safety and that there was no basis on which to make a finding of current impairment on public protection or public safety grounds. Nonetheless, the Tribunal recognised that at the time of the events in question in 2016 – 2019 Dr Wong’s actions were a serious departure from the principles of *Good medical practice* and the GMC’s guidance document *Maintaining a professional boundary between you and your patient*, which covers improper relationships with current and former patients.

46. Dr Wong has taken effective remedial action, shown remorse and addressed the serious concerns over a period of time. He has complied with the conditions imposed by NHS England and been open and honest with the GMC’s investigation.

47. The Tribunal was mindful that any length of suspension is a significant sanction which prevents a doctor from practising. The Tribunal took into account the public interest in returning a doctor to practice and found that a short suspension would allow Dr Wong to return to work whilst marking the seriousness of his conduct. Dr Wong remains a competent and useful doctor, and can provide considerable useful service to society.

48. The Tribunal determined to suspend Dr Wong’s registration from the medical register for a period of three months. It was satisfied that such a period would sufficiently mark the seriousness of Dr Wong’s misconduct and uphold the over-arching objective, namely to promote and maintain public confidence in the profession and to promote and maintain proper standards of professional standards and conduct for members of the medical profession.

Review hearing

49. The Tribunal has had regard to paragraphs 163 and 164 of the SG dealing with review hearings. The Tribunal determined that Dr Wong has fully appreciated the gravity of his actions, he has not reoffended, he has maintained his skills and knowledge, and patients will not be placed at risk by resumption of practice. Accordingly, a review is not necessary.

Conclusion

50. The Tribunal therefore found that a suspension of three months was the proportionate and appropriate sanction, without a review hearing.

Determination on Immediate Order - 25/07/2024

1. Having directed that Dr Wong's registration be suspended for three months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Wong's registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Kennedy submitted that it not necessary in this case to make an immediate order in light of the Tribunals findings.

3. On behalf of Dr Wong, Mr Colman submitted that an immediate order is not necessary in this case.

The Tribunal's Determination

4. The Tribunal has taken into account the relevant paragraphs of the SG which state:

'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor....'

173 *An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.*

178 *Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.*

5. The Tribunal determined that the events leading to this sanction occurred 5 years ago, the Tribunal does not think the public would be concerned if Dr Wong were able to return to unrestricted practice pending the substantive sanction of suspension coming into effect. The Tribunal concluded it is not necessary to impose an immediate order to protect members of the public, it is not in the public interest, and it is not in the best interests of the doctor.

6. This means that Dr Wong's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served unless he lodges an appeal. If Dr Wong does lodge an appeal, he will remain free to practise unrestricted until the outcome of any appeal is known.

7. That concludes the case.