

PUBLIC RECORD

Dates: 06/11/2023 - 09/11/2023

Medical Practitioner's name:	Dr Trevor AVIS	
GMC reference number:	3358751	
Primary medical qualification:	MB BS 1988 University of London	
Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

Summary of outcome

Suspension, 6 months

Tribunal:

Legally Qualified Chair	Mrs Catherine Moxon
Lay Tribunal Member:	Mr John Ennis
Medical Tribunal Member:	Dr Helen Crabtree
Tribunal Clerk:	Miss Hinna Safdar

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Tom Day, Counsel, instructed by MDU
GMC Representative:	Mr Chris Hamlet, 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 & Impairment - 07/11/2023

Background

1. Dr Avis qualified in 1988 from the University of London. At the time of the events which are the subject of the hearing Dr Avis was a GP partner at Mayfield Medical Centre Paignton, in Devon (the Practice). He has since resigned from his partnership in September 2022.
2. The Allegation that has led to Dr Avis' hearing can be summarised as follows: between 2016 and 2021, Dr Avis underwent multiple blood tests on nine occasions and recorded the results of the tests in the medical records of Patient A eight times and once in Ms B's medical records. It is further alleged that Dr Avis entered fictitious consultation notes twice to accompany the blood test results on Patient A's record. Patient A's medical record was the record of a patient who had moved overseas and had not been active at the Practice for 20 years. Ms B worked alongside Dr Avis and assisted him by taking his blood and processing the blood tests under his instruction. It is alleged that Dr Avis' actions were dishonest as the blood tests did not relate to Patient A or Ms B and the narrative entries on Patient A's record were fictitious.
3. The initial concerns were raised with the GMC on 26 May 2022 by Mrs C on behalf of Dr Avis' Responsible Officer in her capacity as Head of Professional Standards for NHS England (NHSE) South West.

The Outcome of Applications Made during the Facts Stage

4. The Tribunal granted an application made by Mr Tom Day, on behalf of Dr Avis, pursuant to the General Medical Council (Fitness to Practise Rules) 2004 (the Rules), that those parts of the hearing which relate to XXX should be heard in private.

The Allegation and the Doctor's Response

5. The Allegation made against Dr Avis is as follows:

That being registered under the Medical Act 1983:

1. Between 2016 and 2021, whilst working at the Mayfield Medical Centre ('the Medical Centre') you:

- a. underwent the tests as set out in:
 - i. Schedule 1; **admitted and found proved**
 - ii. Schedule 2; **admitted and found proved**

 - b. caused the results of the tests referred to at:
 - i. Schedule 1 to be recorded in Patient A’s medical records; **admitted and found proved**
 - ii. Schedule 2 to be recorded in Ms B’s medical records; **admitted and found proved**

 - c. recorded commentaries to accompany the blood test results on Patient A’s medical records as set out at Schedule 3. **admitted and found proved**
2. You knew that:
- a. the tests as referred to in Schedule 1 did not relate to Patient A, XXX; **admitted and found proved**

 - b. the tests as referred to in Schedule 2 did not relate to Ms B, XXX; **admitted and found proved**

 - c. the commentaries as referred to at paragraph 1.c were fictitious as he had not:
 - i. attended any consultations with you; **admitted and found proved**
 - ii. undergone the tests as set out at Schedule 1. **admitted and found proved**
3. Your actions at paragraph:
- a. 1.b.i were dishonest by way of paragraph 2.a; **admitted and found proved**

 - b. 1.b.ii were dishonest by way of paragraph 2.b; **admitted and found proved**

 - c. 1.c were dishonest by way of paragraph 2.c. **admitted and found proved**

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

The Admitted Facts

6. At the outset of these proceedings, through his counsel Mr Day, Dr Avis made admissions to the entirety of the Allegation, as set out above, in accordance with Rule

17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

Determination on Impairment

7. The Tribunal now must 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 above, Dr Avis' fitness to practise is impaired by reason of misconduct.

The Evidence

8. The Tribunal has taken into account all the evidence received at this stage of the hearing, both oral and documentary.

9. Dr Avis provided his own witness statement, dated 6 September 2023. Dr Avis also gave evidence before the Tribunal.

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

- Index Referral from NHSE to the GMC, dated 26 May 2022;
- Screenshots of blood results carried out on Dr Avis;
- Meeting notes with Dr Avis and NHSE, dated 18 May 2022;
- Dr Avis' statement and reflections, dated 1 June 2022;
- Meeting notes with Ms B and NHSE, dated 8 June 2022;
- Follow up meeting notes with Dr Avis and NHSE, dated 21 June 2022;
- NHSE Summary Report into Dr Avis' conduct;
- 360 degree Colleague Feedback Report for Dr Avis, dated January 2020;
- Various Continuing Professional Development (CPD) certificates.

Submissions

11. On behalf of the GMC, Mr Chris Hamlet submitted that Dr Avis had demonstrated dishonesty over five years, abused his power over a subordinate, and attempted to conceal his misconduct. He stated that Dr Avis' conduct had the potential to impact patient care and public confidence.

12. Mr Hamlet highlighted that Dr Avis had admitted the Allegation and he had taken steps to address the concerns, such as relevant CPD courses and self-reflection. However, Mr

Hamlet submitted these measures had not fully remedied the concerns and there was a residual risk of similar future misconduct, because of Dr Avis' persistent and repeated dishonesty.

13. Mr Hamlet emphasised that, while the personal risk of Dr Avis repeating the misconduct may have been mitigated to some extent through his remediation, the impact on public confidence and professional standards due to repeated dishonesty had not been fully addressed.

14. Mr Hamlet pointed out that the misconduct had not resulted in financial gain for Dr Avis XXX. As Dr Avis involved Ms B, this was an abuse of his position. Mr Hamlet submitted that the evidence presented can be seen as Dr Avis manipulating Ms B.

15. Further, Mr Hamlet submitted that Dr Avis' conduct impacted potentially on Patient A's care and it impacted directly on the Practice who had to "*pick up the pieces*" and correct the records. Mr Hamlet submitted that Dr Avis' conduct was such that it necessitated a finding of impairment, if not on the personal components, then certainly on the public components insofar as there was a need to promote and maintain public confidence in the medical profession and promote and maintain proper professional standards for members of the profession.

16. On behalf of Dr Avis, Mr Day submitted that Dr Avis admits that his behaviour amounted to misconduct that is serious and further that his fitness to practise is impaired on public interest grounds.

17. Mr Day submitted that Dr Avis has shown complete insight, remorse, and remediation for his actions, making the risk of repetition highly unlikely. However, he also noted that the public interest might still require a finding of impairment due to the seriousness of his misconduct, which reflected the need to uphold professional standards and public confidence.

18. Mr Day submitted that Dr Avis had made a serious mistake, and his conduct was not characteristic of his overall record as a good and honest doctor. The stress and anxiety he experienced due to personal and work-related factors contributed to his actions. Mr Day pointed out that Dr Avis had invested a significant portion of his life in his medical career and serving his community.

19. Mr Day submitted that Dr Avis has taken concrete steps to remediate the situation, and the risk of repetition was virtually non-existent due to the profound impact the case had

on him. Mr Day highlighted Dr Avis' recognition of his conduct's impact on patients, colleagues, and public confidence, and his genuine remorse and understanding.

20. Mr Day submitted that the Tribunal should consider Dr Avis' complete insight, remorse, and remediation, as well as the absence of a significant risk of repetition. He acknowledged that a finding of impairment may still be necessary to maintain professional standards and public confidence.

The Relevant Legal Principles

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

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

23. The Tribunal must determine whether Dr Avis' fitness to practise is impaired today, taking into account Dr Avis' conduct at the time of the events and any relevant factors since then such as whether the matters are remediable and/or have been remediated and any likelihood of repetition.

24. When considering misconduct, the Tribunal referred to the case of *Roylance v. The General Medical Council (No.2) [2000] 1 AC 311*:

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word "professional" which links the misconduct to the profession of medicine. Secondly, the misconduct is qualified by the word "serious". It is not any professional misconduct which will qualify. The professional misconduct must be serious.'

25. On impairment, the Tribunal had regard to Dame Janet Smith's test in *The Fifth Shipman Report*, cited in *CHRE v NMC and P Grant [2011] EWHC 927 (Admin)*, at paragraph 76:

- a) Whether the registrant 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;*
- b) Whether the registrant has in the past brought and/or is liable in the future to bring the profession into disrepute;*
- c) Whether the registrant has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.*
- d) Whether the registrant has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

The Tribunal's Determination on Impairment

26. The Tribunal considered whether Dr Avis' fitness to practise is currently impaired by reason of his misconduct. The Tribunal had regard to all three limbs of the overarching objective and its obligation to give appropriate weight to each limb.

Misconduct

27. The Tribunal determined that, in falsifying patients' medical records, Dr Avis was abusing his position as a GP. It also determined that there had been an imbalance of power between Dr Avis and Ms B, as she was a member of his staff and was working under his instruction.

28. The Tribunal considered that the facts of the misconduct included acts of repeated dishonesty and an abuse of his professional position. It determined other medical professionals and the public would see this as deplorable and that the facts were far from trivial.

29. The Tribunal bore in mind that Dr Avis had admitted the entirety of the Allegation at the outset of the hearing and had subsequently conceded that his actions had amounted to serious misconduct.

30. The Tribunal also considered that Dr Avis' conduct had impacted directly on the Practice who had to correct Patient A's and Ms B's medical records afterwards. Had these records been left as Dr Avis initiated, their care may have been significantly impacted. For example, if a hospital doctor were to review the patient's blood tests. One of the tests was for XXX, which could have created specific difficulties for Patient A if ever this blood test was reviewed.

31. The Tribunal found that the following paragraphs of *Good Medical Practice 2013* (GMP) had been breached by Dr Avis:

'1 Patients need good doctors. Good doctors make the care of their patients their first concern: they... are honest and trustworthy, and act with integrity and within the law.

36 You must treat colleagues fairly ...

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

71 You must be honest and trustworthy when completing or signing forms, reports or other documents.'

32. The Tribunal considered that these breaches of GMP related to fundamental tenets of the profession and, in so doing, Dr Avis had potentially created a risk to Patient A's and Ms B's safety and undermined the public's confidence in the profession as well as falling short of proper professional standards.

33. The Tribunal therefore concluded that Dr Avis' actions had amounted to misconduct and concluded that this misconduct was serious.

Impairment

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

35. The Tribunal first considered whether the misconduct was remediable, whether it had been remedied and the risk of repetition. Although the repeated dishonesty was, in itself, serious, the Tribunal was of the view that Dr Avis' misconduct was capable of remediation. It noted his regret and remorse, as well as his timely and consistent apologies. The Tribunal accepted Dr Avis' apologies as genuine and sincere. Further the Tribunal accepted that Dr Avis was deeply aware of the gravity of his wrongdoing, ashamed of his misconduct, and appreciated the impact of his actions on the wider health community and the public.

36. The Tribunal was of the view that Dr Avis had demonstrated considerable insight into the unacceptable nature of his behaviour, and noted the targeted CPD he has undertaken. The Tribunal took into account his reflective statements and the measures he has set out to

ensure that this misconduct is not repeated. Dr Avis has reflected on the dangers of having an excessive workload, he has established a strong relationship with XXX and he has engaged with regular support from professionals and his family. The Tribunal concluded that Dr Avis had shown considerable insight into his misconduct.

37. The Tribunal noted that Dr Avis was consistent in his evidence. Dr Avis stood up to the scrutiny of cross-examination. He consistently expressed his remorse, his personal responsibility and recognised how far short he fell from proper standards during the relevant period. The Tribunal accepted Dr Avis' evidence as credible and realistic on how he might work in the future, should he return to clinical practice, for example he would not schedule himself to work back-to-back to minimise workload pressure. The Tribunal considered in terms of his remediation, Dr Avis had done all that could be reasonably expected to demonstrate his insight and remediation.

38. The Tribunal bore in mind that, prior to the events of this case, Dr Avis was of previous good character, and that he has had a career spanning over 30 years without any disciplinary or regulatory action. It had regard to the positive 360 degree feedback. The Tribunal was satisfied that Dr Avis' insight, remorse and remediation are such that there was a very low risk of repetition.

39. However, the Tribunal concluded that his repeated and sustained dishonesty had brought the reputation of the medical profession into disrepute. Dr Avis had continued his misconduct over five years and only stopped when he was caught. The Tribunal further noted that the evidence of Ms B was that she felt that she had been unable to say no to Dr Avis and she had been deeply upset by his actions.

40. The Tribunal determined that Dr Avis had been reckless in abusing his position of power to initiate false entries in patient records but there was no financial gain from his dishonesty and the Tribunal accepted Dr Avis' explanation that he perceived that he was saving time for both his GP and the Practice. XXX.

41. Having given full consideration to the serious nature of Dr Avis' misconduct, the Tribunal reminded itself of its responsibility to uphold the overarching objective, namely:

- 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.

42. The Tribunal determined that the second and third limbs of the overarching objective were currently engaged in this case. Doctors occupy a position of privilege and trust in society and are expected to act with honesty and integrity. The public is entitled to expect that doctors will be trustworthy at all times. The Tribunal accepted that Dr Avis has worked hard to remediate his misconduct to the extent that the Tribunal is not concerned that he represents a risk to patient safety. Nevertheless, the Tribunal concluded that to promote and maintain public confidence in the profession and proper professional standards, a finding of impairment was necessary due to the seriousness of the wrongdoing.

43. Accordingly, the Tribunal determined that Dr Avis' fitness to practise is impaired by reason of his misconduct.

Determination on Sanction - 09/11/2023

44. Having determined that Dr Avis' fitness to practise is impaired by reason of his 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.

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

Submissions

46. On behalf of the GMC, Mr Hamlet outlined the aggravating factors of the case. He stated that Dr Avis had abused his position as a doctor and he had abused the imbalance of power between himself and Ms B. Mr Hamlet added that Dr Avis' misconduct involved repeated dishonesty, which impacted directly on the Practice, who had to correct the records afterwards. He submitted that there was a potential to impact on the care of Patients A and Ms B. Finally, Mr Hamlet submitted that Dr Avis' misconduct only ceased because he was caught.

47. Mr Hamlet then set out the mitigating factors. He submitted that Dr Avis had admitted the Allegation in full and has expressed genuine regret and remorse, as well as demonstrating considerable insight and is taking steps to ensure it is not repeated. Mr Hamlet stated that Dr Avis is of previous good character and the Tribunal had accepted that was a very low risk of him repeating his misconduct.

48. Mr Hamlet submitted that a period of suspension would be the most appropriate sanction. He outlined that in cases of dishonesty, conditions are often unsuitable. He submitted that in Dr Avis' case, conditions would not match the gravity of the wrongdoing and would not effectively uphold public confidence. He stated that suspension is considered as a response for serious misconduct, but misconduct which is not fundamentally incompatible with being a doctor. He submitted that this would be appropriate in Dr Avis' case, as there had been an acknowledgment of fault, there was a low likelihood of repeated behaviour, and evidence of remediation. A period of suspension would address the wrongdoing, uphold public confidence, and uphold professional standards.

49. Mr Hamlet further submitted that in this case, while some factors may be present such as persistent and covered up dishonesty, weighing these against the mitigating features and the seriousness of the dishonesty, it would be disproportionate and unnecessary to erase Dr Avis' name from the medical register.

50. Mr Hamlet submitted that if a suspension is imposed on Dr Avis' registration, its duration should reflect the seriousness of his misconduct. Further, he suggested that a review hearing at the end of the suspension period would be appropriate to assess Dr Avis' readiness to return to unrestricted practice.

51. On behalf of Dr Avis, Mr Day submitted that this was a case where suspension was the appropriate sanction. He invited the Tribunal to impose a suspension for the shortest period possible and submitted that a review would be entirely unnecessary.

52. Mr Day submitted that Dr Avis' dishonesty was repeated but it was an isolated issue and that he did not realise the gravity of his misconduct at the time. While Dr Avis' behaviour was unacceptable, he is remorseful for his misconduct, and he acknowledges that he abused his position to initiate entries into patient records. Mr Day highlighted that Dr Avis' motivation was not to enrich himself or cover up his actions. Instead, Dr Avis had confused thinking and perceived this as a way to save time for himself and for the benefit of his patients and his Practice.

53. Mr Day submitted that there was no risk to patient safety but conceded that a sanction was needed to mark the seriousness of Dr Avis' misconduct. Mr Day added that as Dr Avis has already remediated and expressed sincere remorse, a review would not serve any meaningful purpose and should be weighed against the stress to Dr Avis and additional workload for the GMC.

54. Mr Day submitted that the Tribunal should consider the public's perspective and how they would assess the circumstances of the case. He submitted that the specifics of this case are somewhat unusual and that individual circumstances should be considered, such as XXX.

55. Mr Day invited the Tribunal to carefully weigh the aggravating and mitigating factors and apply a substantial downward force on the length of the suspension. He further submitted that the Tribunal process itself and the public findings of misconduct and impairment had already gone some way to mark the seriousness of Dr Avis' actions. He suggested that that the public would expect a suspension but that a prolonged period may not benefit the public interest.

The Relevant Legal Principles

56. The Tribunal now has to decide, in accordance with Rule 17(2)(n) of the Rules, on the appropriate sanction, if any, to impose.

57. The Tribunal took into account its earlier findings, Counsel's submissions, the relevant case law and the evidence adduced during these proceedings.

58. The decision as to the appropriate sanction is a matter for this Tribunal's own independent judgement. The sanction must be proportionate and tailored to the specific circumstances of the case. In reaching its decision, the Tribunal took into account the SG and the statutory overarching objective.

The Tribunal's Determination on Sanction

59. In deciding what sanction, if any, to impose, the Tribunal reminded itself that it must consider each of the sanctions available, starting with the least restrictive, to establish which is appropriate and proportionate in this case. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Avis' interests with the public interest. It kept in mind that the purpose of a sanction was not to be punitive, although the sanction may have a punitive effect.

Aggravating and mitigating factors

60. Before considering what action, if any, to take in respect of Dr Avis' registration, the Tribunal first considered the mitigating and aggravating factors present and referred itself to its findings on impairment.

61. The Tribunal referred itself to paragraphs 25-49 of Sanctions Guidance (2020)('SG') for mitigating factors and identified the following:

- Dr Avis admitted the Allegation in full at the first opportunity;
- Dr Avis has expressed genuine regret and remorse;
- Dr Avis has demonstrated considerable insight;
- Dr Avis has undertaken targeted CPD and is taking steps to ensure his misconduct is not repeated;
- Dr Avis is of previous good character;
- The Tribunal accepted that there is a very low risk of Dr Avis repeating his misconduct;
- Dr Avis was struggling with excessive workload XXX at the time of the events.

62. The Tribunal referred itself to paragraphs 50-56 for aggravating factors and determined the following were applicable:

- In initiating false entries in patient records, Dr Avis abused his professional position;
- Dr Avis abused the power imbalance between himself and Ms B;
- The dishonesty was repeated over a five-year period;
- The misconduct was concealed via fictitious narrative entries;
- Dr Avis' misconduct impacted directly on the Practice who had to correct the records afterwards;
- There was a potential to impact on the care of Patients A and Ms B, had the records been left uncorrected;
- Dr Avis' misconduct only ceased because he was caught.

No action

63. In coming to a decision as to the appropriate sanction, the Tribunal first considered whether to conclude the case by taking no action. It reminded itself that there should be exceptional circumstances to justify taking no action where a finding of impairment has been made.

64. The Tribunal considered that there were no exceptional circumstances in this case that could justify taking no action. The Tribunal further determined that it would be neither sufficient nor proportionate to conclude this case by taking no action.

Conditions

65. The Tribunal then considered whether imposing an order of conditions on Dr Avis' registration would be appropriate. It bore in mind that any conditions imposed should be

appropriate, proportionate, workable and measurable. It had regard to paragraphs 81 of the SG which indicate the cases in which conditions might be appropriate.

'81 Conditions might be most appropriate in cases:

- a) involving the doctor's health*
- b) involving issues around the doctor's performance*
- c) where there is evidence of shortcomings in a specific area or areas of the doctor's practice*
- d) where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.'*

66. The Tribunal considered that paragraph 81 did not apply in this case. Moreover, the Tribunal determined that an order of conditions would not be appropriate or proportionate to the scale of the misconduct.

Suspension

67. The Tribunal went on to consider whether a period of suspension would be appropriate. It considered 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, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.

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

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

120 Good medical practice states that registered doctors must be honest and trustworthy, and must make sure that their conduct justifies their patients' trust in them and the public's trust in the profession."

68. The Tribunal bore in mind that suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about behaviour that is unbecoming a registered doctor. Suspension is an appropriate response to misconduct that is so serious that action must be taken to maintain public confidence in the profession.

69. When considering whether suspension was the appropriate sanction in this case, the Tribunal had regard to all of the circumstances. It acknowledged that the misconduct was serious, but Dr Avis has demonstrated his insight, expressed heartfelt remorse for his behaviour, and taken steps to remediate his misconduct, including working closely with his professional support system and undertaking targeted CPD courses.

70. The Tribunal found paragraphs 97a, e, f and g of the SG (as set out above) applicable. It noted that Dr Avis' conduct was contrary to GMP, but agreed with the submissions made by both Counsel that it was not conduct that was fundamentally incompatible with continued registration.

Erasure

71. The Tribunal considered if erasure was a proportionate sanction and had regard to paragraph 109a, b, d, h, i and 128 of SG which state:

'109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

a A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.

b A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.

d Abuse of position/trust ...

h Dishonesty, especially where persistent and/or covered up ...

i Putting their own interests before those of their patients ...

128 Dishonesty, if persistent and/or covered up, is likely to result in erasure.'

72. The Tribunal considered its findings at the facts and impairment stage and reminded itself of the particular circumstances that led to the misconduct. The Tribunal accepted that Dr Avis' dishonesty was XXX and was a misguided attempt to be pragmatic and minimise his time taken away from patient care. The Tribunal took into account Dr Avis' expressions of remorse, his apology to Ms B, the steps he has taken to remediate his wrongdoing, the low likelihood of repetition, as well as his insight into his misconduct.

73. Overall, the Tribunal therefore decided that this case was not one where Dr Avis' misconduct is 'fundamentally incompatible with continued registration' and therefore it considered that erasure would not be appropriate or proportionate, nor would it be in the public interest. Erasure would deny the public the services of an otherwise competent and experienced doctor.

74. The Tribunal determined that erasure would be a disproportionate and unnecessary response. It was satisfied, weighing all the factors, that a period of suspension was the appropriate and proportionate response in this case.

Length of Suspension

75. Having determined to impose a period of suspension on Dr Avis' registration, the Tribunal went on to consider the length of the period of suspension. It considered the following paragraphs of SG:

‘100 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.”*

76. The Tribunal considered that there was no current risk of harm to patients but there was a need to mark the seriousness of Dr Avis’ misconduct and to declare and uphold proper standards of behaviour, taking into account the aggravating and mitigating factors in this case. It considered that it had not identified any further areas in which Dr Avis had yet to remediate. Having taken all these matters into account the Tribunal determined to impose a six-month period of suspension on Dr Avis’ registration. It considered that such a period would be proportionate to the gravity of the findings of the Tribunal and would be sufficient to send a signal to Dr Avis, the wider profession and the public.

Review hearing

77. The Tribunal determined not to direct a review in Dr Avis’ case. It was satisfied that he had continuously and sufficiently reflected on and remediated his misconduct. In addition, given that there were no clinical or other identifiable concerns to prevent Dr Avis returning to unrestricted practice following his period of suspension, the Tribunal did not consider that a review was necessary in this case.

Determination on Immediate Order - 09/11/2023

78. Having determined that Dr Avis’ registration be suspended for a period of six months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Avis’ registration should be subject to an immediate order.

Submissions

79. On behalf of the GMC, Mr Hamlet did not invite the Tribunal to consider that an immediate order was necessary to protect members of the public or for any other reason.

80. Mr Day on behalf of Dr Avis agreed with Mr Hamlet and submitted that an immediate order was unnecessary in the interests of public safety. He submitted that the seriousness of Dr Avis’ misconduct was already marked by the substantive sanction of suspension.

The Tribunal's Determination

81. The Tribunal had regard to paragraph 172 of the SG. It took account of the guidance, the submissions of both parties and the specific basis upon which the Tribunal reached its determination on sanction.

“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...”

82. The Tribunal considered that in the absence of any concerns about current patient safety, an immediate order would not be necessary in this case nor did the case warrant an immediate order for any other reason.

83. The Tribunal therefore determined not to impose an immediate order of suspension on Dr Avis' registration.

84. This means that Dr Avis' 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 Avis does lodge an appeal, he will remain free to practise unrestricted until the outcome of the appeal is known.

85. The interim order in place is hereby revoked.

86. That concludes the case.