

PUBLIC RECORD**Dates:** 12/05/2021 - 14/05/2021**Medical Practitioner's name:** Dr Robert JENYO**GMC reference number:** 5193333**Primary medical qualification:** MB BS 1994 University of Jos**Type of case**Restoration following
disciplinary erasure**Summary of outcome**

Restoration application refused. No further applications allowed for 12 months from last application.

Tribunal:

Legally Qualified Chair	Mr Lee Davies
Medical Tribunal Member:	Dr Anjali Ahluwalia
Medical Tribunal Member:	Professor Alastair McGowan

Tribunal Clerk:	Mrs Rachel Horkin
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Lee Gledhill, Counsel, instructed by the Doctor's Defence Service
GMC Representative:	Ms Ceri Widdett, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Restoration - 14/05/2021

Background

1. This is Dr Jenyo's first restoration application. His name was erased from the Medical Register for disciplinary reasons in July 2015, following a Fitness to Practise Panel.
2. Dr Jenyo qualified in 1994 from the University of Jos in Nigeria. He first registered with the GMC in June 2020.

The 2015 Fitness to Practice Panel

3. Dr Jenyo's case was first considered by a Fitness to Practise Panel between January and July 2015 ('the 2015 Panel'). Dr Jenyo was present at this hearing and represented by Mr Haresh Sood, Counsel, of Trent Chambers.
4. At the time of events that led to Dr Jenyo's first hearing he was employed as a General Practitioner at Firsway Health Centre ("the Practice"), Sale, Manchester between August 2006 and July 2007. The GMC allegations were made regarding Dr Jenyo's treatment of Patient A.
5. Patient A was registered at the Practice from 2001 and began consulting with Dr Jenyo at the practice in 2004. At this time Patient A presented with depression due to financial difficulties and stress. On 28 December 2005, Patient A consulted with Dr Jenyo regarding shoulder pain, and was prescribed analgesics. The records show that Patient A continued to consult with Dr Jenyo for low mood. On 27 December 2006 Patient A complained of mid-back pain. Patient A was still complaining of mid-back pain on 26 February 2007, and Dr Jenyo referred him for physiotherapy. On 1 May 2007, a physiotherapist saw Patient A, noting recent weight loss and pain which appeared not to be mechanical. Accordingly, Patient A was referred for an X-ray and blood tests. On 10 May 2007, he was informed of abnormal X-ray and blood test results and was referred to a chest clinic. On 14 May 2007, Patient A was found to have a tumour which was later diagnosed as an undifferentiated large cell carcinoma. Patient A died on 15 July 2007 aged 60.

6. Patient A's family were critical of Dr Jenyo's care, stating that Patient A had been complaining of back pain since 2005 which had not been properly investigated. They raised their concerns around the time of diagnosis in May 2007, and in 2010 they embarked upon a medical negligence claim against Dr Jenyo, which was finally settled, for £30,000, without any admission of liability, in or around March 2012.

7. Whilst investigating the claim, the family's solicitors flagged up some discrepancies in Patient A's medical notes, and it became apparent that Patient A's medical records had been altered. The alterations were not annotated or dated. On 28 February 2012, Dr AB, Patient A's youngest son, made a formal complaint about Dr Jenyo to the GMC.

8. The GMC investigated Dr Jenyo's care of Patient A, and amendment of the records. The GMC alleged that Dr Jenyo was responsible for a number of clinical failings in his treatment of Patient A and that his actions in amending Patient A's records were misleading and dishonest.

9. The 2015 Panel found that in relation to some of the dates of consultation, Dr Jenyo was responsible for clinical failings in relation to Patient A, namely failing to: adequately record any follow up advice given, obtain an adequate medical history, record an adequate medical history, perform an adequate examination, and adequately record the examination.

10. The 2015 Panel concluded that, in this respect, Dr Jenyo's actions did not fall seriously below the standards reasonably to be expected of a general practitioner, relating as they did to a relatively small number of consultations over a period of time, and mainly involving deficiencies in note taking. The Panel therefore determined that these failings did not amount to misconduct.

11. The Panel was of the view that, even if these clinical failings had met the threshold for misconduct, they would not have given rise to a finding of impairment, given the steps he had taken since 2010 to improve his record keeping practices.

12. The 2015 Panel determined that Dr Jenyo made additions to, and deleted parts of, Patient A's clinical notes. The 2015 Panel concluded that the deletions were particularly serious, as they were intended to show symptoms in different areas to those reported by Patient A. For example, in the deletion of the term "mid-back pain" (entry 26 February 2007, amended 27 May 2010), to remove reference to such pain early on in Patient A's records, and the deletion of a note of a chest examination (entry 17 January 2007, amended 27 May 2010), to fit in with the clinical picture that Dr Jenyo wanted to present.

13. The 2015 Panel determined that Dr Jenyo's dishonesty was not a single isolated incident, but behaviour repeated over a long period of time. Further, the 2015 Panel determined that Dr Jenyo's conduct was calculated, both in 2007 when a complaint was made against him, and in 2010 when Patient A's records were requested for legal

consideration. Further, the 2015 Panel considered that the nature of the dishonesty was particularly serious, as it was an attempt to escape potential blame relating to Dr Jenyo's care of Patient A.

14. The 2015 Panel determined that Dr Jenyo's dishonesty amounted to misconduct and that his fitness to practice was impaired by reason of his misconduct.

15. Further, in his oral evidence to the 2015 Panel, Dr Jenyo made allegations that Patient A's son, Dr AB (who also gave oral evidence to the 2015 Panel) was racist towards him on the telephone on 11 May 2007. Dr AB denied this. The 2015 Panel was satisfied on the balance of probabilities that Dr AB was not racially abusive towards Dr Jenyo. The 2015 Panel found that Dr Jenyo's allegation of racism against Dr AB to be a worrying feature of this case, since it indicated a willingness on Dr Jenyo's part to deflect blame and scrutiny by making a serious and unjustified allegation against a fellow medical practitioner. The 2015 Panel determined that Dr Jenyo had no thought of the personal consequences such accusations would have for Dr AB, for his reputation as a practitioner, and for the wider reputation of the profession. This was considered by the 2015 Tribunal to be further evidence of lack of insight on Dr Jenyo's behalf.

16. Having found Dr Jenyo's fitness to practise impaired, the 2015 Panel went on to consider what sanction, if any, to impose. The 2015 Panel determined that there was nothing before it to suggest that there was any possibility of remediation given Dr Jenyo's continuing denial of any wrongdoing and lack of insight. The Panel was particularly concerned that Dr Jenyo denied his dishonesty in the face of the evidence presented during the 2015 hearing, and that he did not accept the Panel's findings. In those circumstances, the Panel was not satisfied that Dr Jenyo would deal with any future issues openly and honestly.

17. The 2015 Panel concluded that Dr Jenyo's behaviour was fundamentally incompatible with continued registration. The 2015 Panel was satisfied that erasure was the only means of protecting the wider public interest, which includes the declaring and upholding proper standards of conduct and behaviour within the profession. It was also satisfied that erasure was the proportionate and appropriate sanction. It therefore determined that Dr Jenyo's name should be erased from the Medical Register.

Today's Restoration Hearing

18. This Tribunal has convened to consider Dr Jenyo's application for his name to be restored to the Medical Register in accordance with Section 41 of the Medical Act 1983 (as amended) and Rule 24 of the GMC (Fitness to Practise) Rules 2004 (as amended).

The Evidence

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

20. Dr Jenyo gave oral evidence at the hearing and relied upon the documentary evidence he had provided. Dr D also gave oral evidence on Dr Jenyo's behalf.

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

- Dr Jenyo's reflective writing;
- Dr Jenyo's Continuous Professional Development Portfolio dating between 01 August 2014 – 26 December 2019;
- Information regarding requests for clinical attachments;
- Dr Jenyo's Learning Log dating between 01 January 2021 - 30 April 2021;
- Character statements including from current employer and previous patients;
- Certificates of course completion;
- BMJ portfolio various dates 2020 – 2021;
- ELH activity record dated 1 September 2019 to 12 May 2021;
- Dr Jenyo's back to work plan;
- Statement of Dr D, Dr Jenyo's mentor dated 14 April 2021.

Dr Jenyo Oral Evidence

22. Dr Jenyo gave oral evidence at the hearing and answered questions under cross-examination, as well as questions from the Tribunal.

23. Dr Jenyo informed the Tribunal that, regarding the incident that led to his 2015 hearing, he was under pressure at work and stressed and that, he was "trying to cover up things". Dr Jenyo stated that he now realises the impact that his actions had on Patient A and his family, his colleagues, the organisation, the medical profession and the public. He stated that he regrets his actions, should not have done them and has reflected on them. Dr Jenyo told the Tribunal that he is a good doctor who needs to care for his patients as his "first priority". He further stated that he needs to make sure that he acts with integrity and he wants to show the Tribunal his complete remorse. He acknowledged that it was dishonest of him to make those entries, to "cover up" and said that he acted wrongly. Dr Jenyo said that, in future, he needs to make sure that he is open, honest and competent and will ensure that his colleagues can trust him. Dr Jenyo stated that he must remember his duty of candour and remember his role to protect patients and the public interest.

24. Dr Jenyo told the Tribunal that the public can be reassured that he will not repeat his actions because his skillset, attitude and personality has changed. He's no longer "stuck up" and "self-centred" he can now recognise things from a different perspective and can acknowledge when he is wrong and take responsibility for his actions.

25. Regarding the counter accusations Dr Jenyo made of racism against Dr AB, Dr Jenyo said that, at the time he thought Patient A's family were trying to attack his personality and he used the allegations of racism as a front to "get away with it" and he now realises that he was

“completely wrong”. Dr Jenyo said that he appreciates that Patient A’s family would have been grieving his loss and that Dr Jenyo’s accusations of racism against Dr AB were completely wrong and he would not make the accusation today. Dr Jenyo stated that, if a complaint were to be raised about his clinical practice in future, he realises that he needs to apologise for any mistakes he may make and seek to remedy them in an open and transparent way.

26. Dr Jenyo informed the Tribunal that Patient A’s family put trust and respect in him, and he now understands that his misconduct impacted not only the family but his colleagues and his regulator. He feels deep shame for accusing Dr AB of racism, and he should have shown insight in realising that this conduct was wrong. Dr Jenyo said that he takes ownership of his actions and regrets his behaviour. He should have been open and honest right from the start. Dr Jenyo said that he has “put himself in the shoes” of Patient A’s family and now he would act differently.

27. Dr Jenyo now accepts that his colleagues at the practice would not have known that Patient A’s records had been amended and, had allegations of dishonesty been made against the practice this would have impacted patient confidence in the practice as a whole. Dr Jenyo admitted that, at the time of receiving the complaint and amending Patient A’s records he did not consider the impact of his actions on his colleagues but only the impact on himself and admitted that his judgement was impaired at that time. Dr Jenyo compared his conduct against the tenets of GMP and acknowledged that it fell short. Dr Jenyo admitted that many of his actions including record taking and follow up should have been better.

28. Dr Jenyo told the Tribunal that when the complaint came in, he did not want the details of this case to come out and suggest to patients, his colleagues and to the public that he was a bad doctor. Looking back on his conduct, Dr Jenyo admitted that he should not have done this. He said that, at the time, a high workload was making him tired and stressed but that he was not offering that as an excuse for his behaviour. Dr Jenyo informed the Tribunal that, in future, he does not intend to work such long hours or undertake weekend locums and wants a better work/life balance. Dr Jenyo said that he was working such long hours for financial reasons and has now changed his lifestyle to remove the financial pressures. Dr Jenyo said that he needs to take care of himself so that he can take better care of his patients.

29. Dr Jenyo informed the Tribunal that he has obtained a mentor, Dr D with whom he discussed his courses and who recommends reading to him to “plug gaps” in his knowledge. He has completed online courses (face to face was difficult during the pandemic) and focused on the different areas he is deficient in. Dr Jenyo informed the Tribunal that he continued to read medical journals and kept a professional log following his erasure from the medical register but now appreciates that he needs a more structured approach to his reading to update his knowledge.

30. Dr Jenyo stated that he would like to undertake a clinical attachment to ensure that he is practicing safely and is up to date with the most recent changes to clinical practice. He also wants to build up a network of colleagues. Dr Jenyo stated that a clinical attachment would help to ease his way back into clinical practice and to refresh and improve his skills and

learning. Dr Jenyo considered that a clinical attachment would also be a safe way for him to return to NHS work and also advised the Tribunal that Dr E, GP Lead for the North West GP Return to Practice programme, has indicated that she would guide him through the programme. Dr Jenyo further informed the Tribunal that he would not earn a salary in the first 6 months of the programme and he has no intention to work in any other job to avoid overworking himself again. He is confident about returning to practice because he wants to return and hopes that he can build on this with the clinical attachment.

31. Under cross examination, Dr Jenyo confirmed that the insight that he has gained is in relation to the misconduct arising from his altering of Patient A's records and putting misleading information in them. Dr Jenyo said that following his unsuccessful appeal in 2017, he recognised that altering Patient A's records was wrong and that the alterations made were done so in a "devious" way and went against tenets of GMP. Dr Jenyo said, at that specific time he came to realise the wider impact of his actions and the need to rectify them. Dr Jenyo accepted that altering Patient A's records was dishonest but was unable to articulate what led to his dishonesty. He stated that, at the time he did not think that what he was doing was wrong but now he realises that it was.

32. Regarding Dr AB, Dr Jenyo admitted that he has not written an apology to him or Patient A's family but would be prepared to do so if required. He stated further that, if he had contact details for Dr AB/Patient A's family then he would apologise to them for what happened. Dr Jenyo said that he did not know that he could apologise to Patient A's family when he was no longer in practice.

33. Dr Jenyo advised that he has been doing courses regarding record keeping and ethics since 2017. Dr Jenyo said that he only approached a mentor in 2020 as this is when the idea came to him to have someone to help him move forward. Dr Jenyo stated that he had weekly sessions with Dr D which centred on his remediation particularly probity and trust. Dr Jenyo also stated that he has used the GMC website as a resource for his learning.

34. Dr Jenyo stated that he first began calling around about clinical attachments around "Christmas time" 2019 but the Covid pandemic meant that he was unable to obtain an attachment. Dr Jenyo stated that as medicine is ever changing, he did not want to do a clinical attachment too early as some of the information would become obsolete. He admitted that he wanted to complete a clinical attachment before applying for restoration and that he has spoken to Trafford General Hospital about obtaining a clinical attachment with them. Dr Jenyo admitted that he has not provided evidence that Dr E will guide him through the clinical attachment.

35. When asked specifically about what he would articulate in an apology letter to Patient A's family, Dr AB or his colleagues, Dr Jenyo stated that the letter would take responsibility for his dishonest actions regarding amending Patient A's records and about the 2015 Panel findings.

Witness Evidence of Dr D

36. Dr D confirmed that she is a registered doctor in the United States of America, and she met Dr Jenyo when they worked together in Nigeria. Dr D confirmed that she is aware of the GMC's allegations made against Dr Jenyo. Dr D informed the Tribunal that Dr Jenyo approached her several years ago to talk over what happened but then was erased from UK practice. Prior to Covid they would have phone calls to discuss what happened and once the pandemic arose, they moved to Zoom calls.

37. Dr D stated that initially, Dr Jenyo was very upset about what had happened and she acted as a mentor and tried to support him. As time went on Dr Jenyo started to reflect on his behaviour and they would discuss his reflection. Dr D stated that she has seen a "remarkable" change in Dr Jenyo's attitude from his being sad that it had happened and not understanding why it had happened as he thought he had done the right thing in line with his practice. Dr Jenyo then started to realise he could have done things differently and that, in amending Patient A's records, he acted dishonestly, and he has tried to rectify that.

38. Dr D submitted that the conversations between her and Dr Jenyo started as "friendly chats" but as time went on, they began to discuss the case and their conversations "sometimes became more formal". Dr D stated that they discussed probity issues from her own clinical experiences. They also discussed the courses that Dr Jenyo undertook. Dr D confirmed that she and Dr Jenyo mainly discussed the case of Patient A.

Submissions

39. Ms Widdett submitted that the GMC opposes Dr Jenyo's application for restoration. Ms Widdett invited the Tribunal to find that whilst Dr Jenyo has made significant advances in his insight, it is not yet complete. Ms Widdett said that Dr Jenyo has a limited understanding of what went wrong. She reminded the Tribunal of Dr Jenyo's evidence was that he developed insight after his unsuccessful appeal and prior to that he did not realise that amending medical records was wrong. She submitted that Dr Jenyo gave no adequate explanation for this mindset or what went wrong. Ms Widdett submitted that Dr Jenyo's submissions were unconvincing, and he has not shown that he fully understands the potential impact of his actions. He was empathetic towards Patient A's family but showed limited remorse regarding his false allegations of racism made against Dr AB and the potential of those actions on Dr AB's professional or personal reputation. Ms Widdett asked Tribunal to find that the remorse that Dr Jenyo had shown is "late in the day" in the course of these proceedings.

40. Ms Widdett submitted that Dr Jenyo has not fully demonstrated empathy for Patient A's family or his colleagues as he has taken no steps to apologise to them. She submitted that the apologies that Dr Jenyo made during his oral evidence come "late in the day" of this hearing.

41. Ms Widdett reminded the Tribunal that Dr Jenyo has said how he would act in the future and it is for the Tribunal to consider if he is genuine. Regarding his insight, Ms Widdett stated that Dr Jenyo's insight remains incomplete and therefore there is a risk of repetition of his misconduct. Ms Widdett submitted that it is difficult to demonstrate remediation for dishonesty,

and that steps taken soon after the relevant incident would carry more weight. Ms Widdett submitted that Dr Jenyo has not undertaken relevant work since erasure and has not kept his relevant medical skills and knowledge up to date. Ms Widdett agreed that Dr Jenyo has attended relevant courses online but, as they are not face to face, they have limited value. Ms Widdett did however, concede that the Covid pandemic is a relevant factor for Dr Jenyo attending online courses recently but submitted that this does not explain why he took online course throughout the earlier periods of his erasure.

42. Ms Widdett submitted that the majority of Dr Jenyo's CPD is irrelevant for the issue of remediating dishonesty and stated that the majority of the relevant CPD was undertaken in 2020 and 2021. Ms Widdett submitted the Tribunal to find that Dr Jenyo's evidence that he undertook courses later on in his erasure so that they would not expire is not accepted by the GMC. She further submitted that the majority of courses undertaken were unassessed and therefore unmeasurable. Ms Widdett submitted that there is no specific and relevant evidence of probity courses being undertaken contrary to Dr Jenyo saying that he attended them in his oral evidence.

43. Ms Widdett submitted that Dr D was an impressive witness who emotionally supported Dr Jenyo and mentored him regarding issues of probity, but Dr Jenyo only approached her in May 2020. Ms Widdett submitted that it is difficult for the Tribunal to measure effectiveness of this mentoring as it was in the absence of assessment. Ms Widdett further submitted that Dr Jenyo's current employment as a Support Worker and subsequent positive testimonial provided by Ms F is not relevant to the issues of dishonesty.

44. Ms Widdett reminded the Tribunal that, in his oral evidence, Dr Jenyo stated that he understood the benefit of undertaking a clinical attachment prior to attending this hearing but that he only applied for placement in late 2019. Ms Widdett submitted that Dr Jenyo's further oral evidence that he wanted to delay an attachment in order for his knowledge and skills to be up to date is not credible, as more than attachment could be arranged. She further submitted that there is no evidence he will get an attachment on a particular date and no evidence to suggest that Dr E that she will guide him through the programme. Ms Widdett submitted that the testimonials provided are not relevant, measurable or effective evidence for remediation for dishonesty

45. Ms Widdett concluded her submissions by stating that as Dr Jenyo's insight, remorse and steps to remediate are not yet complete, there is a low but nonetheless reasonable risk of repetition of Dr Jenyo's misconduct which led to the 2015 hearing.

46. Mr Gledhill submitted that Dr Jenyo has full insight into the history of the matters and accepts he changed documents to deflect attention from him. Mr Gledhill submitted that Dr Jenyo is not making excuses and accepts full personal responsibility for what took place. Dr Jenyo has had a long time to think about matters and is a well-rounded and well-read individual.

47. Mr Gledhill said that it is incorrect that Dr Jenyo only approached Dr D in 2020 as she has supported him since the incident. Mr Gledhill reminded the Tribunal of Dr D's witness evidence regarding Dr Jenyo's mindset at the time of the unsuccessful appeal and how she saw an

“evolution in his thinking”. Mr Gledhill submitted that Dr Jenyo did not have insight at the time of the incident but that his thinking has developed.

48. Mr Gledhill asked the Tribunal to consider the passage of time since the incident and submitted that Dr Jenyo has done a lot of work. Mr Gledhill said that it is unfair to focus only on the certificates provided when Dr Jenyo has also undertaken a wide range of reading about issues relating to probity. Dr Jenyo has taken on a lot of information and his “wide-ranging reading” is equally valid if not more so that attending courses. Mr Gledhill submitted to the Tribunal that Dr Jenyo’s reading was significant and relevant to issues surrounding record keeping and probity.

49. Mr Gledhill submitted that the evidence is clear that Dr Jenyo has not “stood still” in keeping abreast of his clinical knowledge. Mr Gledhill informed the Tribunal that Dr Jenyo has approached people to request a clinical attachment but Covid has made this difficult. Mr Gledhill submitted that a more recent clinical assessment would be given greater weight at a Tribunal. Mr Gledhill reminded the Tribunal that Dr Jenyo has presented a detailed back to work plan and that he does not want to return to clinical practice before undertaking a clinical attachment and has gone on return to work programme provided by the NHS to GPs.

50. Mr Gledhill sought to reassure the Tribunal that Dr Jenyo has changed his lifestyle to avoid his previous financial pressures and that Dr Jenyo does not intend to embark on weekend locum work. Mr Gledhill stated that the back to work programme will show Dr Jenyo’s professionalism at work as well as allowing him to observe other medical professionals demonstrating good practice.

51. Mr Gledhill submitted that Dr Jenyo has reflected on his conduct and at this hearing in public, made detailed apologies. Mr Gledhill argued that Patient A’s family may not have wanted to receive Dr Jenyo’s apology and it was a “significant moment” that Dr Jenyo was willing to make such a statement and such an apology. Mr Gledhill submitted that, in time Dr Jenyo may seek to write the letters of apology. It’s something that he’s willing to do and he has explained in his oral evidence what he would like to say

52. Mr Gledhill submitted that the testimonial of Ms F is relevant to Dr Jenyo’s record keeping and probity. Further, it demonstrates that he is a good doctor on the “front line” and is providing a service which is not being doubted. Mr Gledhill further submitted that Dr Jenyo’s current role provides him exposure to a care setting and the standards expected in one. There is no evidence of repetition of matters that led to erasure but rather evidence to the contrary of him demonstrating his fitness to return to clinical practise in his current role.

53. Mr Gledhill submitted that Dr Jenyo’s written and oral evidence demonstrates his reflection and that the risk of repetition “is negligible to nil”. Mr Gledhill further submitted that a reasonable and properly informed member of the public would know that, if Dr Jenyo returned to practice he will go on to maintain and promote public confidence in the profession and the Tribunal can be assured by that fact.

The Tribunal’s Approach

54. Throughout its consideration of Dr Jenyo’s application for restoration, the Tribunal was guided by the approach laid out in the MPTS Guidance document: *Guidance for medical practitioners tribunals on restoration following disciplinary erasure* (October 2019) (‘the Guidance’).

55. It reminded itself that the onus is on Dr Jenyo to satisfy the Tribunal that he is fit to return to unrestricted practice. The Tribunal should not seek to go behind the findings on facts, impairment and sanction made by the 2013 Panel and the 2014 Review Panel.

56. The test to be applied by Tribunals when considering if a doctor should be restored is that set out in *GMC v Chandra* [2018] EWCA Civ 1898, namely: ‘*having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective.*’

57. The Tribunal reminded itself that, in making its decision, it should consider the following factors:

- the circumstances that led to disciplinary erasure;
- whether the doctor has demonstrated insight into the matters that led to erasure, taken responsibility for their actions, and actively addressed the findings about their behaviour and skills including consideration of:
 - insight and remorse;
 - remediation and risk of repetition;
 - whether findings about the doctor’s behaviour have been remedied;
 - likelihood of repetition of the previous findings about the doctor’s behaviour;
- what the doctor has done since their name was erased from the Register including consideration of:
 - overseas practice;
- steps the doctor has taken to keep their skills and knowledge up to date; and
- the lapse of time since erasure.

58. After considering these factors, the Tribunal reminded itself it should balance its findings against whether restoration meets the overarching objective, carefully considering each of the three elements and acting in a way which:

- protects, promotes and maintains the health, safety, and well-being of the public;
- promotes and maintains public confidence in the profession; and
- promotes and maintains proper professional standards and conduct

for members of the profession.

59. The Tribunal took account of all the evidence before it, both oral and documentary. It has also considered the submissions made by Ms Widdett and Mr Gledhill.

The Tribunal's Decision

The circumstances that led to Dr Jenyo's disciplinary erasure

60. The Tribunal fully considered the determinations of the 2015 Panel throughout its deliberations and had regard to the background as set out above. The Tribunal noted that it should not seek to go behind any of the findings made by the 2015 Panel.

61. The Tribunal considered that the conduct that led to the 2015 hearing was serious and that Dr Jenyo sought to deliberately deflect from his own actions by making a false allegation of racism against Dr AB.

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

Insight and Remorse

62. The Tribunal first considered Dr Jenyo's level of insight. The 2015 Panel was of the view that Dr Jenyo lacked insight and it was not satisfied that he would deal with any future issues openly and honestly.

63. The Tribunal considered Dr Jenyo to be a consistent witness who cooperated with the hearing. The Tribunal considered that Dr Jenyo sometimes gave incomplete answers and did not find him convincing on key issues when asked by counsel.

64. The Tribunal accepted the submissions of both counsel that Dr Jenyo has made significant advances in his insight since the 2015 panel. The Tribunal noted that in both his written and oral evidence Dr Jenyo accepted that he should have acted differently. The Tribunal was concerned however, that Dr Jenyo is still unable to adequately articulate and acknowledge what led him to amend Patient A's records. He was also unable to articulate why it had taken so long for any insight into his dishonesty to begin to develop. Dr Jenyo stated that, at the time, he was stressed and undertaking locum work for financial reasons but the Tribunal noted that the incident did not occur in a locum setting but as part of Dr Jenyo's day to day work as a GP.

65. The Tribunal also reminded itself of Dr Jenyo's oral evidence that, whilst acknowledging that he did do it, Dr Jenyo stated that he did not believe at the time that amending Patient A's records was wrong. The Tribunal did not find this credible. Throughout his oral evidence Dr Jenyo stressed the importance of his record keeping being clear,

accurate and legible but at no point did he also state that his record keeping should be truthful.

66. The Tribunal had regard to all relevant paragraphs of the Guidance. Dr Jenyo had provided detailed written and oral reflections for the Tribunal. In considering Dr Jenyo's oral evidence, the Tribunal gave particular consideration to paragraph B10 of the Guidance:

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

a *considered the concern, understood what went wrong and accepted they should have acted differently*

b *demonstrated that they fully understand the impact or potential impact of their performance or conduct, for example by showing remorse*

c *demonstrated empathy for any individual involved, for example by apologising fully*

d *taken steps to remediate and to identify how they will act differently in the future to avoid similar issues arising*

67. The Tribunal, whilst considering that Dr Jenyo is empathetic towards Patient A's family, did not consider that Dr Jenyo's apology given in his oral evidence alone was sufficient. In particular, whilst recognising Dr AB as a member of Patient A's family and including him in that apology, Dr Jenyo did not consider the significant impact that making false allegations of racism may have had on Dr AB professionally and/or personally.

68. The Tribunal determined that, whilst Dr Jenyo has developed some insight and remorse for his actions, this insight and remorse are not yet complete.

Remediation

69. As set out above, the Tribunal had regard to all of the documentary evidence in the case including the findings of the previous 2015 Panel.

70. The Tribunal again had regard to the relevant paragraphs of the Guidance and gave particular consideration to B15:

B15 *Remediation can take several forms, including, but not limited to:*

a *participating in training, supervision, coaching and/or mentoring relevant to the concerns raised*

b *attending courses relevant to the concerns raised, for example anger management, maintaining boundaries, ethics or English language courses*

c *evidence that shows what a doctor has learnt following the events that led to the concerns being raised, and how they have applied this learning in their practice (where applicable)*

d *evidence of good practice in a similar environment to where the concerns arose.*

71. The Tribunal had regard to whether Dr Jenyo had undertaken any remediation since his erasure and whether that remediation was relevant, measurable and effective.

72. The Tribunal considered that Dr D had the best intentions when giving evidence and when helping Dr Jenyo through this situation. Dr D came across as a credible witness who did her best to assist the Tribunal with balanced evidence and considered answers. Dr D was candid about her long-term friendship with Dr Jenyo in her evidence to the Tribunal.

73. The Tribunal concluded that Dr D was a valuable resource to Dr Jenyo and that the mentoring developed after she initially provided him with emotional support up to and including his appeal. Dr D corroborated Dr Jenyo's account that, upon his appeal failing, he began to develop insight into the actions that led to his erasure. During the pandemic in 2020, Dr D's support of Dr Jenyo developed into more formal conversations about the circumstances of his erasure and they explored various scenarios to assist his developing insight and remediation. However, the Tribunal considered that it would have found it helpful to have an independent mentor and further considered that Dr Jenyo could have found more structured and independent support from which he could have evidenced their discussions and his learning.

74. The Tribunal considers that Dr Jenyo could have taken steps to find more formal guidance in the form of supervision, mentoring or coaching to help him to understand why he acted in the way that he did. The Tribunal took the view that Dr Jenyo would benefit additionally from such assistance, ideally face to face, with a professional familiar with the requirements of UK practice and the GMC.

75. The Tribunal did not accept Dr Jenyo's evidence that he did not know any contact details for Patient A nor Mr Gledhill's submission that an apology may not have been welcomed by the family of Patient A or Dr Jenyo's colleagues. The Tribunal considered that Dr Jenyo could have at least tried to make enquiries via the GMC as to whether Patient A's family would have been open to receiving an apology from him. The Tribunal also considered that, as a minimum, Dr Jenyo could have drafted letters of apology to Patient A's family, Dr AB and to his colleagues at the Practice.

76. The Tribunal acknowledged the work that Dr Jenyo has undertaken to keep his clinical skills and knowledge up to date and commend him for this. The Tribunal accepted Dr Jenyo's statement that the Covid pandemic meant that he could only attend online courses, but it also accepted Ms Widdett's submission that Dr Jenyo could have undertaken face to face courses outside of the pandemic. The Tribunal considered that face to face probity and ethics courses are desirable but not necessarily determinative.

77. The Tribunal had regard to the evidence of the courses that Dr Jenyo undertook and considered that a more targeted approach to learning, particularly in regard to probity, could have been taken. The Tribunal noted that a lot of courses undertaken by Dr Jenyo were self-learning which cannot be measured. The Tribunal considered that assessed work either as

part of a course or face to face learning would reassure the public and the regulator that Dr Jenyo's clinical skills and knowledge and being maintained and assessed. In terms of the mentoring provided by Dr D it would have been beneficial if the discussions regarding good practice and probity were documented.

78. The Tribunal acknowledged that remediation of dishonesty is difficult but considers that the previous dishonesty findings of the 2015 Panel are remediable. The Tribunal considered that, whilst Dr Jenyo now shows more empathy towards Patient A's family, his apology thus far has not been sufficient, and he has not acknowledged or apologised for any potential impact that his false allegations could have had on Dr AB. The Tribunal further considered that Dr Jenyo still needs to understand fully and acknowledge how he came to amend Patient A's records in the first place and until he does, remediation cannot be complete.

Risk of repetition

79. The Tribunal took into consideration Dr Jenyo's level of insight and its assessment of his remediation when considering whether there remained a risk that he would repeat his misconduct.

80. The Tribunal noted the following factors to be relevant in its consideration of the risk of repetition in this case:

B24 A low but nonetheless real risk of repetition may be particularly significant where repetition could have a very serious outcome. A low risk of repetition should therefore be carefully distinguished from identifying no risk of repetition.

81. The Tribunal concluded that the risk of repetition whilst low is still a real one. The Tribunal determined that whilst Dr Jenyo is unable to adequately articulate or understand how his misconduct came about in the first place, there must remain a risk of repetition.

What Dr Jenyo has done since his name was erased from the Register?

82. Dr Jenyo's name was erased from the Medical Register in July 2015. As well as considering the certificates provided, the Tribunal notes that Dr Jenyo is currently working as a Support Worker. The Tribunal has considered the positive testimonial of Ms F who describes Dr Jenyo as,

"... trustworthy, kind and empathetic. He has an amazing work ethic, excellent time keeping and always completes faultless record keeping in each environment.

I highly recommend Robert to any employee as he will only add to the value of the company and enhance the lives of those he supports."

83. The Tribunal has considered and accepted Ms Widdett’s submissions that Dr Jenyo’s current role is not akin to that of a GP as he is dealing with fewer patients and the demands and responsibilities of a GP will not be upon him.

Will restoration meet the overarching objective?

84. Having considered the specific concerns about Dr Jenyo’s erasure and the factors set out above, the Tribunal went on to determine whether Dr Jenyo is fit to practise and be restored to the Medical Register. The Tribunal carefully balanced its findings against whether restoring Dr Jenyo to the Medical Register will meet the overarching objective, considering each limb.

85. Having considered the specific circumstances of this case, the Tribunal went on to consider whether Dr Jenyo posed any future risk to patients and members of the public. The Tribunal is satisfied that Dr Jenyo has made substantial and creditable efforts to maintain his clinical knowledge and skills and considered that, if he goes through his return to work plan he would not pose a risk to patient on the basis of his clinical skills and knowledge. The Tribunal considered that Dr Jenyo still has to complete his journey in terms of remediating his dishonesty and the risk of repetition therefore, remains a potential risk to patient safety.

86. The Tribunal then considered if restoring Dr Jenyo’s name to the medical register would promote and maintain public confidence in the profession or Promote and maintain profession standards and conduct. The Tribunal determined that restoring someone who has not yet fully achieved insight or fully remediated their misconduct could not promote or maintain public confidence in the profession or promote and maintain professional standards and conduct.

87. The Tribunal concluded that it cannot be satisfied that, if restored, Dr Jenyo would not repeat the dishonest conduct that led to his 2015 hearing. Dr Jenyo has not yet developed full insight or fully remediated his dishonest actions. Therefore, restoration would not serve the overarching objective.

Conclusion

88. The Tribunal has not been persuaded that Dr Jenyo has sufficiently reduced the risk of repetition of dishonest conduct and therefore was not satisfied that Dr Jenyo is currently fit to practise. It accordingly refused Dr Jenyo’s application to be restored to the Medical Register.

Confirmed

Date 14 May 2021

Mr Lee Davies, Chair