PUBLIC RECORD

Dates: 29/08/2023 - 04/09/2023

Medical Practitioner's name:	Mr Ibrahim JALLOH
GMC reference number:	3684922
Primary medical qualification:	MD 1980 University of Liberia

Type of case	Outcome on facts	Outcome on impairment
New - Deficient professional performance	Facts relevant to impairment found proved	Impaired

Summary of outcome

Suspension, 12 months.
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mrs Jayne Wheat
Lay Tribunal Member:	Mrs Valerie Blessington
Medical Tribunal Member:	Dr Kamran Shahid

Tribunal Clerk:	Mx Nate Caruso-Kelly

Attendance and Representation:

Medical Practitioner:	Not present and not represented
GMC Representative:	Ms Chloe Fairley, 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 Facts - 30/08/2023

Background

1. Dr Jalloh qualified in 1980 from the University of Liberia. He was awarded full registration with the GMC in 1994.

2. On 29 March 2006 Southampton City NHS Primary Care Trust informed the GMC that Dr Jalloh had been removed from Southampton PCT's Performers List on grounds of 'efficiency', following four complaints which raised serious concerns about his clinical performance when working for the Out of Hours Service.

3. Dr Jalloh undertook a GMC Performance Assessment in September and October 2006. He was judged fit to practise with restrictions. Dr Jalloh agreed to a schedule of undertakings on 23 April 2007.

4. It is alleged that on 2 February 2010 the GMC invited Dr Jalloh to undertake a reassessment of his professional performance which was completed in June and July 2010. It is further alleged that Dr Jalloh's performance was unacceptable in the areas of Assessment, Treatment and Record keeping. It is further alleged that Dr Jalloh's performance was a cause for concern in the areas of Investigations, Laws and regulations, Communication and Relationship (colleagues). The Performance Assessment concluded that he remained fit to practise on a limited basis.

5. On 29 October 2010, Dr A from Kingfisher and Surrey Docks Centres, where Dr Jalloh was employed, informed the GMC that an audit of the medical records of patients seen by Dr Jalloh had been carried out. Concerns were identified that Dr Jalloh had failed to record notes for 54 patients and there was no evidence of referrals being made in respect of 14 others. Dr Jalloh's employment was terminated on 3 November 2010.

6. Case Examiners varied Dr Jalloh's undertakings in February 2011. Dr Jalloh signed a schedule of varied undertakings on 16 February 2011. In April 2011, Dr Jalloh failed a multiple-choice exam which formed part of the London Deanery's Induction & Refresher ('I&R') Scheme. He went on to pass the exam in December 2011.

7. In January 2012 Dr Jalloh failed the practical exam of the I&R Scheme. He failed it again on his second attempt in April 2012. The London Deanery advised the GMC that only two attempts were allowed, and it had no further resources to support Dr Jalloh retraining as a GP.

8. The GMC wrote to Dr Jalloh in August 2012 to advise that the case examiners were unwilling to revise his undertakings until he provided a plan for retraining in another speciality.

9. The GMC and Dr Jalloh maintained regular contact in the subsequent years and Dr Jalloh stated on several occasions that he had been unable to secure any training post due to the undertakings being ‘completely unreasonable’.

10. Dr Jalloh relinquished his licence to practise on 14 March 2016.

11. Dr Jalloh’s licence to practice was restored on his application, on 8 October 2018.

12. On 25 August 2021 the GMC advised Dr Jalloh that his undertakings would be monitored now that his licence had been restored. In January 2022 Dr Jalloh informed the GMC that he had been for several interviews but continued to be unsuccessful in securing a post, due to the undertakings imposed on his registration.

13. On 1 March 2022 Dr Jalloh submitted a formal complaint to the GMC about his undertakings. He stated that he couldn’t remember agreeing to them and asked that they be reviewed.

14. On 19 April 2022, the GMC informed Dr Jalloh that it would not direct a further performance assessment given the time that had elapsed since he last worked in a medical capacity.

15. On 9 May 2022, the case examiners concluded that Dr Jalloh’s case should be referred to a Medical Practitioners Tribunal Hearing and the Assistant Registrar made the referral to MPTS on 14 December 2022.

The Outcome of Applications Made during the Facts Stage

16. The Tribunal granted the GMC’s application, made pursuant to Rule 31 of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’), that the notices of hearing had been properly served and to proceed in the absence of Dr Jalloh. The Tribunal’s full decision on the application is included at Annex A.

The Allegation and the Doctor’s Response

17. The Allegation made against Dr Jalloh is as follows:

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

1. Between 14 June-17 June and on 1 July 2010 you underwent a General Medical Council assessment of the standard of your professional performance.

   To be determined.

2. Your professional performance was unacceptable in the following areas:

   a. Assessment;

To be determined.

b. Treatment;

To be determined.

c. Record keeping.

To be determined.

3. Your professional performance was a cause for concern in the following areas:

a. Investigations;

To be determined.

b. Laws and regulations;

To be determined.

c. Communication;

To be determined.

d. Relationship (colleagues).

To be determined.

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

Witness Evidence

18. The Tribunal received evidence on behalf of the GMC in the form of a witness statement and exhibits from the following witness who was not called to give oral evidence:

- Mr B, Case Review Manager at the GMC, dated 13 February 2023.

19. Dr Jalloh provided written submissions on the Allegation to the Tribunal, by emails dated 21 and 26 July 2023. As he did not attend the hearing, he did not give oral evidence.

Documentary Evidence

20. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to a copy of the Performance Assessment dated July 2010.

The Tribunal's Approach

21. 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 Jalloh 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.

22. The Tribunal has borne in mind that Dr Jalloh is not present and not represented at this hearing. The Tribunal has considered Dr Jalloh's written representations, in so as far as they assist the Tribunal in its deliberations at the facts stage. Dr Jalloh did not give evidence to the Tribunal that could be tested by way of cross examination.

The Tribunal's Analysis of the Evidence and Findings

23. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

Paragraph 1

24. The Tribunal had regard to the witness statement of Mr B. Mr B explains that on 2 February 2010 the GMC invited Dr Jalloh to undertake a reassessment of his professional performance. Dr Jalloh consented. Mr B exhibits a copy of the findings of the performance assessment undertaken, dated 28 September 2010. The Tribunal had regard to page 1 of the performance assessment, which sets out the dates that Dr Jalloh undertook the assessment. These dates are recorded as a Peer Review between 14 – 17 June 2010 and Tests of Competence on 1 July 2010. The Tribunal also considered that in his written representations, Dr Jalloh references the results of the performance assessment under the heading *'The next section is in response to the assessment carried out in 2010'.* The Tribunal concluded from this that Dr Jalloh accepts he undertook the performance assessment in 2010. As such, the Tribunal determined that paragraph 1 of the Allegation was found proved.

Paragraph 2 - Your professional performance was unacceptable in the following areas:
2(a) – Assessment

25. The Tribunal turned to paragraph 4.1 of the assessment document, which summarises the conclusions of the assessors in relation to the category '*assessment of patient's condition'* and sets out their methodology in reaching the overall assessment of unacceptable:

> *'Information concerning Dr Jalloh's assessment of patients was obtained mostly from, medical record reviews, case based discussion and observation of practice as well as the OSCE and simulated surgery. The overall conclusion was that Dr Jalloh's assessment of patients was unacceptable. There were areas of practice where Dr Jalloh's assessment was satisfactory. For example he took patient's BP on a regular basis when they were diagnosed with hypertension and he generally examined musculo-skeletal conditions although not always in a systematic and thorough way. Dr Jalloh examined patients' chest when appropriate but when observed, did not do this fully in a way that would exclude significant disease. He did not measure peak flow*

readings for patient with obstructive airways disease. Dr Jalloh assessed children's upper respiratory illnesses in an acceptable way. However, he did not always assess patients' depression when appropriate to do so and sometimes made diagnoses or formulated a management plan without a complete examination. In addition some of the diagnoses he did make were very unlikely based on the data available and there were several patients where the assessment was judged a serious potential patient safety risk. Because of these latter factors and the high proportion of patients with unacceptable elements of assessment, the assessors judged Dr Jalloh's assessment of his patient's condition unacceptable.'

26. The Tribunal also considered the body of the assessment and concluded that the overall assessment reached in this category had been balanced and fair. For example, the assessors gave multiple examples of acceptable practice.

27. The Tribunal did note that Dr Jalloh, in his written submissions, gave an example to demonstrate that he carried out the standard routine management of patients. The Tribunal considered that this paragraph of the Allegation related to the findings of the assessors, which were, in the opinion of the Tribunal, clearly set out within the performance assessment. Therefore, the Tribunal determined that paragraph 2(a) of the Allegation was found proved.

2(b) – Treatment

28. The Tribunal turned to paragraph 4.3 of the assessment document, which summarises the conclusions of the assessors in relation to the category *'Providing or arranging treatment'* and sets out their methodology in reaching the overall assessment of unacceptable:

'Examples of Dr Jalloh providing treatment were found in the clinical record review, observation of practice, CBD, the tests of competence and from information provided by third parties. There were examples of appropriate antibiotics for lower respiratory tract and other infections, symptomatic treatment and appropriate analgesia. There were also examples of appropriate prescribing for psychiatric and cardiovascular conditions. There were occasions where he didn't prescribe antibiotics when it would have been inappropriate to do so. When recorded, there was evidence of appropriate non-pharmacological advice and management plans including follow-up as there were when Dr Jalloh was observed. However, Dr Jalloh prescribed antibiotics for chest infections which were not first line and pholcodine for asthma and productive coughs. He commenced patients on a dose of antidepressants which is not recommended and used food supplements inappropriately. There were other examples where a non-recommended dose of drug was used. Dr Jalloh prescribed medication at patient's request even when this was not indicated. On occasion, Dr Jalloh's prescribed for asthma outside the recommendations of national guidelines and he used systemic steroids at doses and for durations outside authorative guidelines. There were also examples where prescriptions were written without instructions for the use of the drug where this would have been important and sometimes he prescribed without a reasonable indication even without patient pressure. There were also several patients with chronic conditions where control was poor, but this was not addressed by Dr

> *Jalloh. After examining patients, Dr Jalloh was not seen to wash his hands on a number of occasions. Dr Jalloh did not offer management options when it would have been appropriate to do so. There were several patient safety issues and treatment of patients was judged unacceptable.'*

29. The Tribunal also considered the body of the assessment and considered that the conclusion above was reached in a balanced and fair way. For example, the assessors gave multiple examples of acceptable practice and some examples of a cause for concern.

30. The Tribunal noted that Dr Jalloh had provided comments in his written submissions about this category, in which he strongly objects to the conclusions reached by the assessors. The Tribunal considered that this paragraph of the Allegation related to the findings of the assessors, which were, in the opinion of the Tribunal, clearly set out within the performance assessment. Therefore, the Tribunal determined that paragraph 2(b) of the Allegation was found proved.

<u>2(c)- Record Keeping</u>

31. The Tribunal turned to paragraph 4.5 of the assessment document, which summarises the conclusions of the assessors in relation to the category *'Record Keeping'* and sets out their methodology in reaching the overall assessment of unacceptable:

> *'Evidence of Dr Jalloh's record keeping came from the records themselves, supplemented by CBD and information from third parties. There were examples of acceptable use of templates, good structure in the records especially relating to summaries and the records were complete in so far as the consultations, correspondence and results were present. In the majority of cases another experienced clinician could take over the care of the patient without too much difficulty. However, there were many examples where histories and examinations were incomplete or absent and there was very little about what patients had been told. It was not possible for the assessors to determine if these were absent because they had not been done or just not recorded and have taken the view that the latter is the case except in specific circumstances discussed in Section 4.1 of this report. In addition there were examples of inaccurate information, templates not being used when it would have been useful and indications for medication not being recorded, wrong Read coding, absence of important diagnoses in the summary lists while there were trivial conditions there. Dr Jalloh did acknowledge that record keeping 'was not a strong point'. As in the majority of the records reviewed there were significant aspects judged unacceptable, the overall judgement for the standard of record keeping was judged unacceptable.'*

32. The Tribunal also considered the body of the assessment in this category and considered that the conclusion above was reached in a balanced and fair way. The assessors gave comprehensive examples of record keeping that was acceptable, and records which were a cause for concern, as well as those which were deemed to be unacceptable. Therefore, the Tribunal determined that paragraph 2(c) of the Allegation was found proved.

Paragraph 3 - Your professional performance was a cause for concern in the following areas: 3(a)- Investigations

33. The Tribunal turned to paragraph 4.2 of the assessment document, which summarises the conclusions of the assessors in relation to the category *'providing or arranging investigations'* and sets out their methodology in reaching the overall assessment of cause for concern:

> *'Examples of Dr Jalloh arranging investigations were taken from the clinical record review, observation of practice, CBD the second interview and relevant sections of the tests of competence. Dr Jalloh's practice in ordering investigations was inconsistent. There were examples of chronic disease management including relevant blood investigations but there were others where they had been omitted for long periods of time including patients where abnormal results had not been followed up and patients on ACE inhibitors did not have follow up renal and blood electrolyte investigations. For acute problems there was mixture of appropriate and inappropriate investigations ordered including several where it was important for a particular investigation to be performed. Because of the inconsistencies demonstrated, Dr Jalloh's practice with respect to arranging investigation was judged a cause for concern.'*

34. The Tribunal also considered the body of the assessment and considered that the conclusion above was reached in a fair and balanced way. For example, assessors identified an acceptable investigation:

> *'Patient 15 was a male born in 1979. On 26 April 2010 Dr Jalloh ordered a Paul Bunnell and full blood count (FBC) for a patient with sore throat and gland (CRR14- 20) and then ordered a repeat FBC on 5 May 2010 when advised to do so by the haematology laboratory (CRR64-20).'*

35. The assessors also identified instances where Dr Jalloh's practice had been unacceptable, for example:

> *'Patient 5 was a male patient born in 1940 on losartan and a statin seen by Dr Jalloh on 25 May 2010. The last U&E in the records was in May 2008 and there had been no LFTs recorded since 2004 (CRR55-21).'*

36. Therefore, the Tribunal determined that paragraph 3(a) of the Allegation was found proved.

3(b)- Laws and regulations

37. The Tribunal turned to paragraph 4.9 of the assessment document, which summarises the conclusions of the assessors in the category '*working within laws and regulations'* and sets out their methodology in reaching the overall assessment of cause for concern.

> *'Examples for Dr Jalloh's performance with respect to laws, regulations and guidelines came from the record review, observation of practice, a third party interview, CBD and*

tests of competence. Dr Jalloh gave appropriate medical sickness certificates and although in the OSCE declined to backdate one, he actually gave a post-dated certificate during the observation of practice. Similarly although he was familiar with some aspects of the hyperlipidaemia guidelines, in a particular situation his practice was not consistent with them. It is of concern that he was unfamiliar with authorative asthma guidelines given its prevalence in the community. There were systems in the practice that were judges unacceptable. Although Dr Jalloh may not be responsible for them, there was no evidence that he had taken any steps to question or change them.'

38. The Tribunal also considered the body of the assessment and considered that the conclusion above was reached in a fair and balanced way. For example, assessors identified examples which were judged acceptable and unacceptable.

39. The Tribunal therefore determined that paragraph 3(b) of the Allegation was found proved.

3(c) – Communication

40. The Tribunal turned to paragraph 4.12 of the assessment document, which summarises the conclusions of the assessors in the category *'Communicating with patients…'* and sets out their methodology in reaching the overall assessment of cause for concern:

> *'Dr Jalloh's communication skills were observed at the observation of practice, OSCE and simulated surgery. Additional information came from CBD and interviews with colleagues who had observed him consult. Dr Jalloh showed the ability to ask open questions at the start of a consultation so obtaining information of the presenting problem and often gave relevant information in a coherent way such as the use of a drug and its side effects. With many patients he had or developed a good rapport and at times was appropriately reassuring. However he often missed cues that clearly were of a concern to patients, used jargon without checking the patients' understanding and on occasion gave misleading or wrong information. There were few occasions when Dr Jalloh discussed options concerning management and could be dismissive of the patients' views. None of the observed patients were offered written information about their condition.'*

41. The Tribunal also considered the body of the assessment and considered that the conclusion above was reached in a fair and balanced way. The Tribunal noted that in many of the examples given, Dr Jalloh showed some good communication skills, and some which were poor, for example:

> *'Patient OP3 was aged 26 and attended Dr Jalloh with a pain in the knee. Dr Jalloh let the patient speak for one minute without interrupting (OP1-10) and later clarified what the patient wanted (OP1-11). However Dr Jalloh missed patient cues about concern about blood clots in the leg twice (OP1-12) and it was judged a cause when Dr Jalloh used the term haemoglobin without checking the patient understood what this meant (OP1-13).'*

42. The Tribunal noted Dr Jalloh's written submissions on this category, in which he disagrees with what he perceived the assessors to have concluded. The Tribunal considered that this paragraph of the Allegation related to the findings of the assessors, which were, in the opinion of the Tribunal, clearly set out within the performance assessment. Therefore, the Tribunal determined that paragraph 3(c) of the Allegation was found proved.

3(d)- Relationships (colleagues)

43. The Tribunal turned to paragraph 4.14 of the assessment document, which summarises the conclusions of the assessors in the category of *'relationships with colleagues/GPs/teamwork*' and sets out their methodology in reaching the overall assessment of cause for concern:

> *'Dr Jalloh's relationship with his colleagues was assessed from the letters of referral, CBD, observation of practice and third party interviews. Although there were examples of acceptable referral letters, there were many with inadequate and a few with inaccurate information in them. On occasion it was not apparent what was required of the consultant. However Dr Jalloh did follow through on prescriptions suggested by hospital colleagues and was said to have a good relationship with the receptionist at Surrey Docks Health Centre.'*

44. The Tribunal also considered the body of the assessment and considered that the conclusion above was reached in a fair and balanced way, on the basis of a measured multi-factorial assessment.

45. The Tribunal took account of Dr Jalloh's written submissions about this category, which address the difficult working relationship with his employer. However, the Tribunal considered that this paragraph of the Allegation related to the findings of the assessors, which were, in the opinion of the Tribunal, clearly set out within the performance assessment. Therefore, the Tribunal determined that paragraph 3(d) of the Allegation was found 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. Between 14 June-17 June and on 1 July 2010 you underwent a General Medical Council assessment of the standard of your professional performance.

   Determined and found proved.

2. Your professional performance was unacceptable in the following areas:

   a. Assessment;

   Determined and found proved.

b. Treatment;

Determined and found proved.

c. Record keeping.

Determined and found proved.

3. Your professional performance was a cause for concern in the following areas:

a. Investigations;

Determined and found proved.

b. Laws and regulations;

Determined and found proved.

c. Communication;

Determined and found proved.

d. Relationship (colleagues).

Determined and found proved.

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

Determination on Impairment - 31/08/2023

47. 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 Jalloh's fitness to practise is impaired by reason of deficient professional performance.

The Outcome of Applications Made during the Impairment Stage

48. The Tribunal granted the GMC's application, made pursuant to Rule 34 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to admit further evidence, that being Appendix 3 to the performance assessment of 2010. The Tribunal agreed with the GMC's submission that the Appendix is relevant as it sets out the definitions used by the assessors for the assessment categories of '*acceptable'*, '*unacceptable'* and '*cause for concern'*. Furthermore, that it is fair to Dr Jalloh to admit this Appendix as he has previously received the Appendix with the original performance assessment, and therefore it is not information that is new to him. In addition, it clarifies the approach taken by the

assessors, which is of assistance to the Tribunal in properly determining whether Dr Jalloh's fitness to practice is impaired by reason of deficient professional performance.

The Evidence

49. The Tribunal has taken into account all the evidence received during the facts stage of the hearing.

50. In particular, the Tribunal had regard to the following documentary evidence:

- 2010 performance assessment;
- Signed Schedule of varied undertakings, dated 16 February 2011;
- Correspondence from London Deanery to Dr Jalloh, dated 2007 – 2015;
- Correspondence between Dr Jalloh and the GMC, dated 2012 – 2022; and
- Portfolio and Certificates provided by Dr Jalloh dated 2022 and 2023.

Submissions

51. On behalf of the GMC, Ms Fairley submitted that Dr Jalloh's fitness to practise is impaired by his deficient professional performance. Ms Fairley submitted that, as the Tribunal has noted in its decision on facts, the performance assessment was conducted appropriately and fairly, and the assessors came to a fair conclusion on the basis of a good sample of Dr Jalloh's work. Ms Fairley directed the Tribunal to the performance assessment, in which the assessors noted that Dr Jalloh's professional performance was deficient overall, and further that this assessment had not improved since his previous assessment in 2006. Ms Fairley further submitted that the assessors stated that Dr Jalloh's performance could be improved with more intense support, however he should not be practising in an isolated fashion, and he needed to be in a learning environment.

52. Ms Fairley submitted that Dr Jalloh's professional performance was deficient in three areas, as set out in the Appendix to the report which indicates that the definition of 'unacceptable' is that of deficient professional performance. Ms Fairley drew the Tribunal's attention to the conclusions made by the assessors in each area – Assessment, Treatment, and Record keeping. In each area, Ms Fairley noted that the assessors found serious concerns for patient safety.

53. Ms Fairley submitted that the assessors' conclusion that Dr Jalloh was not suitable to practise independently demonstrates that they considered that Dr Jalloh posed a future risk to patients, and a risk to public confidence in the profession. Ms Fairley submitted that each of the three areas are fundamental aspects of the role of a doctor, and clearly fall within the definition of deficient professional performance.

54. With regard to impairment, Ms Fairley submitted that Dr Jalloh had failed to adhere to the following paragraphs of Good Medical Practice (2006) ('GMP (2006)'): 1, 2, 3, 12, 13, 14, 22. Ms Fairley submitted that in regard to insight, Dr Jalloh has provided written submissions to this Tribunal in which he strongly objects to the conclusions of the assessors

in 2010, and she submitted that this showed a concerning absence of insight into his deficiencies.

55. Ms Fairley further submitted that Dr Jalloh has failed to remediate the concerns in the performance assessment. Ms Fairley submitted that while Dr Jalloh has provided some certificates relating to courses he has undertaken and has made unsuccessful attempts to pass a refresher course, there is no evidence that his deficiencies have been acknowledged or remediated. Ms Fairley submitted that there remain very serious concerns that Dr Jalloh's deficiencies have not been addressed or remediated, and therefore the risk of repetition is high. Ms Fairley submitted that there remains a risk to patient safety.

56. In conclusion, Ms Fairley submitted that following the findings in the assessment report, and in the absence of any insight or remediation, there remains a risk that Dr Jalloh's deficient professional performance will continue. Ms Fairley submitted that all three limbs of the overarching objective would be undermined if a finding of impairment were not made, in all the circumstances of the case.

57. The Tribunal took into account Dr Jalloh's written submissions.

The Relevant Legal Principles

58. 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.

59. 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 deficient professional performance and then whether the finding of that deficient professional performance should lead to a finding of impairment.

60. The Tribunal must determine whether Dr Jalloh's fitness to practise is impaired today, taking into account Dr Jalloh's professional performance at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

61. The Tribunal had regard to the case of *Calhaem v GMC* [2007] EWHC 2606 (Admin):

> *'"Deficient professional performance" within the meaning of 35C(2)(b) is conceptually separate both from negligence and from misconduct. It connotes a standard of professional performance which is unacceptably low and which (save in exceptional circumstances) has been demonstrated by reference to a fair sample of the doctor's work.'*

62. The Tribunal bore in mind the principles from the case of *Cohen* v *GMC* (2008) EWHC 581, which related to misconduct as a ground of impairment, but was equally relevant to deficient professional performance;

- whether the practitioner's deficient professional performance is easily remediable;
- whether it has been remedied; and
- whether it is likely to be repeated.

63. The Tribunal referred to the questions propounded by Dame Janet Smith in her 5th Shipman report, in respect of impairment, to which Mrs Justice Cox referred and endorsed in the case of *CHRE* v *NMC and Grant* [2011] EWHC 927 (Admin) (*'Grant'*):

> *'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. … '*

64. The Tribunal was mindful of the statutory overarching objective which is 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.

65. The Tribunal considered the version of GMP which was relevant at the time (2006-2013 version) and which would have been used by the assessors when carrying out the performance assessment in 2010.

The Tribunal's Determination on Impairment

Deficient Professional Performance
Paragraph 2

66. When considering whether Dr Jalloh's conduct at the performance assessment – in the categories of Assessment, Treatment, and Record keeping - amounts to deficient professional performance, the Tribunal first turned to the assessment report, which concluded that his performance was unacceptable.

67. The Tribunal had regard to the definitions of 'Unacceptable' set out in the assessment report:

> ***'For individual criteria***
> ***Unacceptable*** *performance is performance which clearly departs from the performance described in "Good Medical Practice";*
>
> ***For your overall judgement:***
> *Using the categories in 'Good Medical Practice'*
> ***Unacceptable*** *indicates that there is evidence of repeated or persistent failure to comply with the professional standards appropriate to the work being done by the*

doctor, particularly where this places patients or members of the public in jeopardy (i.e. deficient professional performance). This grade should be entered either if you have evidence that the criteria for an acceptable level of performance are regularly NOT being met OR if negative criteria are being met.'

68. The Tribunal therefore considered GMP (2006), and determined that Dr Jalloh had departed from the standards set out in the following paragraphs:

'1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues…

2 Good clinical care must include:

(a) adequately assessing the patient's conditions, taking account of the history (including the symptoms, and psychological and social factors), the patient's views, and where necessary examining the patient

(b) providing or arranging advice, investigations or treatment where necessary

(c) referring a patient to another practitioner, when this is in the patient's best interests.

3 In providing care you must:

(a) recognise and work within the limits of your competence

(b) prescribe drugs or treatment, including repeat prescriptions, only when you have adequate knowledge of the patient's health, and are satisfied that the drugs or treatment serve the patient's needs

(c) provide effective treatments based on the best available evidence
…
(f) keep clear, accurate and legible records, reporting the relevant clinical findings, the decisions made, the information given to patients, and any drugs prescribed or other investigation or treatment
…
(j) make good use of the resources available to you.

7 The investigations or treatment you provide or arrange must be based on the assessment you and the patient make of their needs and priorities, and on your clinical judgement about the likely effectiveness of the treatment options. …

12 You must keep your knowledge and skills up to date throughout your working life. You should be familiar with relevant guidelines and developments that affect your work. You should regularly take part in educational activities that maintain and further develop your competence and performance.

In relation to Assessment only:

> *22 To communicate effectively you must:*
>
> > *(a) listen to patients, ask for and respect their views about their health, and respond to their concerns and preferences*

In relation to Treatment only:

> *13 You must keep up to date with, and adhere to, the laws and codes of practice relevant to your work.*
>
> *22 To communicate effectively you must:*
>
> > *(b) share with patients, in a way they can understand, the information they want or need to know about their condition, its likely progression, and the treatment options available to them, including associated risks and uncertainties.'*

69. Having regard to the definitions above and the outcome of the performance assessment, the Tribunal considered that it was clear that the assessors had assessed Dr Jalloh's professional performance to be deficient in the areas of Assessment, Treatment, and Record keeping.

70. The Tribunal took into account the submissions provided by Dr Jalloh, and found the following statements to be relevant:

> *'Clinical Assessment: I always carry out a thorough and relevant examination of every patient I see guided by the history and presenting complaints and symptoms. I have never knowingly misled or misdiagnosed any of the patients I have encountered, managed, treated. …*
>
> *Providing or Arranging Treatment: I do not accept the assertion that I have a liberal attitude to prescribing antibiotics for chest infection, and even more ridiculous that I prescribe antibiotics for viral infections. This statement is unfortunate and absurd…'*

71. The Tribunal further considered the example that Dr Jalloh gave which he said showed appropriate assessment and treatment:

> *'As an example when I joined the practice at Kingfisher Medical Centre, I saw a lady who had been attending the surgery for so called chest pain for over a year After hearing her history and symptoms I went ahead to perform a thorough examination of her chest, cardiovascular, respiratory systems including her breast and abdomen. My examination revealed that she has a breast mass (present over a year) I made an urgent referral to the appropriate department. She was found to have breast cancer. She had surgery an adjuvant therapy. I had to dissuade her from suing the surgery for negligence.'*

72. The Tribunal weighed the limited evidence of positive performance given by Dr Jalloh against the assessment undertaken by the performance assessors which looked at a vast number of Dr Jalloh's cases and identified a range of acceptable and unacceptable examples. The Tribunal, in its determination on facts, stated that it was satisfied that the performance assessors had carried out a fair and balanced assessment of Dr Jalloh's performance.

73. The Tribunal was mindful that in his submissions, Dr Jalloh did not address any of the examples given by the assessors which were deemed unacceptable, nor did he give an alternative explanation as to why his approach was correct in the cases that were identified as unacceptable.

74. The Tribunal further took into account that within a few months of this performance assessment, in 2011, Dr Jalloh signed amended undertakings, which he had first agreed to following his performance assessment in 2006. The Tribunal determined that it could attach little weight to Dr Jalloh's continued denial of the findings of the 2010 performance assessment, when he agreed to undertakings on the basis of the findings in the assessment.

75. The Tribunal therefore determined that, in all the circumstances outlined, Dr Jalloh's performance fell so far short of the standards of performance reasonably to be expected of a doctor as to amount to deficient professional performance.

Paragraph 3

76. The Tribunal was mindful of the performance assessment having reached a *'Cause for Concern'* conclusion in four of the categories that were assessed – Investigations, Laws and regulations, Communication, and Relationship (colleagues). The Tribunal had regard to the definition of *'Cause for Concern'* set out in the Appendix to the assessment report:

> ***'For your overall judgement:***
> *Using the categories in 'Good Medical Practice'*
> ***Cause for concern*** *means that there is evidence that the doctor's performance may not be acceptable but there is not sufficient evidence to suggest deficient professional performance.'*

77. The Tribunal accepted the definition of *'Cause for Concern'* and therefore concluded that Dr Jalloh's performance in these four categories, as set out in paragraph 3 of the Allegation could not amount to deficient professional performance.

Impairment

78. The Tribunal, having found that the facts found proved in relation to Dr Jalloh's performance in the areas of Assessment, Treatment and Record keeping amounted to deficient professional performance, went on to consider whether, as a result of that deficient professional performance, Dr Jalloh's fitness to practise is currently impaired.

79. The Tribunal first considered whether, in the past, Dr Jalloh has acted so as to put patients at unwarranted risk of harm. The Tribunal considered the conclusions of the performance assessment:

> *'some of the diagnoses he did make were very unlikely based on the data available and there were several patients where the assessment was judged a serious potential patient safety risk. Because of these latter factors and the high proportion of patients with unacceptable elements of assessment, the assessors judged Dr Jalloh's assessment of his patient's condition unacceptable …*
>
> *There were also examples where prescriptions were written without instructions for the use of the drug where this would have been important and sometimes he prescribed without a reasonable indication even without patient pressure. There were several patient safety issues and treatment of patients was judged unacceptable. …*
>
> *Dr Jalloh did acknowledge that record keeping 'was not a strong point'. As in the majority of the records reviewed there were significant aspects judged unacceptable, the overall judgement for the standard of record keeping was judged unacceptable.'*

80. The Tribunal determined that in each of the three categories, Dr Jalloh's performance had been deemed unacceptable, and while this in itself, demonstrated a risk to patient safety, the assessors, as set out above, identified specific patient safety issues in each category. The Tribunal therefore found that Dr Jalloh has, in the past, put patients at unwarranted risk of harm, in relation to Assessment, Treatment, and Record keeping.

81. The Tribunal then considered whether Dr Jalloh has, in the past, breached a fundamental tenet of the profession. The Tribunal considered its conclusion above that Dr Jalloh has departed from the standards set out in multiple paragraphs of GMP (2006), however, concluded that, whilst these breaches were serious, they did not amount to breaching a fundamental tenet of the profession.

82. The Tribunal then considered whether Dr Jalloh has, in the past, brought the medical profession into disrepute. The Tribunal considered that Dr Jalloh has not, in relation to this performance assessment, brought the profession into disrepute. The Tribunal was mindful that not every instance of poor performance brings the profession into disrepute, and all clinicians should be given the opportunity to improve. However, the Tribunal did consider that Dr Jalloh's deficient professional performance had, in the past been capable of undermining public confidence in the profession.

83. The Tribunal next considered whether Dr Jalloh's deficient professional performance can be remediated. The Tribunal concluded that deficient professional performance is capable of being remedied with ongoing and targeted learning, practice, training, supervision, and adequate support.

84. The Tribunal then considered whether Dr Jalloh has remediated his deficient professional performance. The Tribunal first took into account the certificates which Dr Jalloh has provided as follows:

‘Time Management, held on Tuesday, February 7, 2023, BMA

Being Assertive in Challenging Situations, held on Wednesday, February 15, 2023, BMA

These certificates related to watching webinars. Dr Jalloh also provided the following certificates:

Fundamentals of Neuroscience, Part 1: The Electrical Properties of the Neuron, Issued April 15, 2023, Harvard X (an online learning initiative of Harvard University)

Fundamentals of Neuroscience, Part 2: Neurons and Networks, Issued May 7, 2023, Harvard X (an online learning initiative of Harvard University)

Fundamentals of Neuroscience, Part 3: The Brain, Issued May 9, 2023, Harvard X (an online learning initiative of Harvard University)’

85. The Tribunal considered these certificates and determined that while they show some efforts have been made by Dr Jalloh to keep his knowledge up to date, it is not clear how the courses he has undertaken are specifically relevant to the deficiencies identified by the performance assessors. Given the 13 years which have passed since the performance assessment, during which time there is no evidence before the Tribunal of Dr Jalloh having had any clinical experience, the Tribunal determined that this evidence was wholly insufficient to demonstrate remediation of the failings identified.

86. The Tribunal had regard to the BMJ Portfolio Report submitted by Dr Jalloh, which detailed a large number of 1 hour learning modules either completed or in progress between August and October of 2022. It noted that these modules were relevant to General Practice, although Dr Jalloh has not provided any reflections on how the learning modules might have remediated his deficient professional performance. The Tribunal concluded that in isolation, the 1-hour learning modules conducted online over 3 months some 12 years after the performance assessment, were not sufficient to demonstrate remediation.

87. In his statement, Dr Jalloh makes the following assertion:

‘I have addressed most of the issues in the best way I can, in the form of, taking on line courses run by BMJ e-learning among other things like attending free lectures run by the BMJ.
I have submitted an extensive and detailed PORTFOLIO. This portfolio covers most of the relevant topics in General Practice (all the core topics including communication and consultations, disease management just to name a few)
I have in the interim also obtained a diploma in Neuroscience from Harvard University in the USA (certificates attached)
I also obtained a diploma in Cardiology from Middlesex University in London in 2006
I am certain over the time (2011 -2022, I have done enough work to address the issues raised by the case examiners

Most unfortunately, I was not able to secure a post to satisfy the condition imposed on my registration. I can assure you it was not due to lack of trying.'

88. The Tribunal further took into account letters sent to the GMC by Dr Jalloh in 2013 and 2014, in which Dr Jalloh asserts that he is keeping his medical knowledge up to date:

> '2013: *I keep up my medical knowledge update by reading BMJ Leaning on line and reading journals in cardiology gp amd surgery …*
>
> 2014: *I have just returned from a course run by the Royal College of Surgeons in Glascow* [sic] *The details of the course and certificate obtained are enclosed. I keep my medical knowledge up to date by reading journals in meicine, cardiology and surgery.'*

89. The Tribunal also considered the letters provided by the GMC which show that Dr Jalloh attempted to gain entry to the 'GP Induction and Refresher Scheme' ('I&R') offered by the London Deanery on several occasions. The Tribunal took into account the letter from Dr C, the Associate Dean in the Professional Support Unit, dated 17 July 2015, which documented two unsuccessful attempts at the I&R Simulated Surgery entrance assessment, and the consequential difficulties Dr Jalloh would face to retrain in General Practice;

> *'I believe that there are some very significant obstacles in the way of your ambition to retrain'*

90. Finally, the Tribunal took into account a letter from the GMC, dated 2 March 2022, in which it is noted, '*According to my records you've not worked in a medical capacity since 2012.'*

91. Taking into account the paucity of relevant training or targeted courses, Dr Jalloh's failed attempts to gain entry to the I &R course, and it having been 13 years since Dr Jalloh had practiced medicine, the Tribunal found that Dr Jalloh has not remediated his deficient professional performance.

92. The Tribunal then considered whether Dr Jalloh has shown insight into his deficient professional performance. The Tribunal first considered Dr Jalloh's submissions:

> *'I always carry out a thorough and relevant examination of every patient*
> *I see guided by the history and presenting complaints and symptoms. I have never knowingly misled or misdiagnosed any of the patients I have encountered, managed, treated. …*
> *I am siting this case to illustrate that I indeed do carry out the standard routine management of patients that I see. To suggest otherwise is totally wrong. I must reiterate that I have never misdiagnosed a patient or missed a diagnosis that has resulted to any harm to a patient or put a patient at risk. I very strongly deny any such claim. …*

I totally disagree with the statement that I am a danger to the public and that I am unsafe. I have not caused any harm to any patient in my professional career as a medical doctor both in Surgery (General and Cardiothoracic) …
I have never caused any harm to any patient in my care. I am not aware of ever caused any harm to any patient. The conjecture that I am a possible danger to patients and the public at large in my opinion is utterly wrong and not supported by evidence'

93. The Tribunal considered that the first step to developing insight must be to consider carefully the conclusions of the assessors and reflect on the examples they have given. The Tribunal considered that in his submissions, Dr Jalloh gives very few examples of his own, all of which are positive. The Tribunal was mindful that Dr Jalloh has had 13 years to consider the findings of the assessment, and despite this, he continues to deny them. Dr Jalloh has not provided the Tribunal with any reflections on the examples in the assessment.

94. The Tribunal, in its findings of fact, has stated that the assessor's conclusions were fair and balanced, and supported by evidence. Dr Jalloh's assertion that the report is not supported by evidence is clearly wrong and shows a lack of insight into the thoroughness and fairness of the assessment.

95. The Tribunal further took into account Dr Jalloh's correspondence with the GMC in regard to the undertakings and conditions which he has been subject to since the outcome of this assessment report in 2010, and previous to that since 2006.

96. In a letter to the GMC dated 28 March 2014, Dr Jalloh stated:

'I find the conditions completely unreasonable I fail to see the objective of the conditions expect of course to make me unemployable as is the case for the past 3 years.'

97. In a letter to the GMC dated 19 March 2013, Dr Jalloh stated:

'I am afraid to say the conditions imposed are completely and utterly unreasonable'.

98. In a letter to the GMC dated 1 March 2022, Dr Jalloh stated:

'I am hereby submitting a formal complaint about the undertakings attached to my registration. I cannot remember agreeing to the undertakings specified on my registration, having just undergone a previous set of conditions /undertakings. Surely the conditions are not meant to be perpetual .
The undertakings as outlined seem to indicate that I am not capable of carrying out the basic functions/duties of a doctor. I find this not only offensive but insulting. You have not produce not a single evidence to support this false and baseless claim. I feel very offended and insulted by this claim
I would like to see your evidence that has made your come to this completely false claim.'

99. The Tribunal was concerned that although Dr Jalloh agreed to the undertakings being amended as a result of the 2010 assessment, he is unable to accept the undertakings or the conclusions of the assessors. The Tribunal was of the opinion that there was significant evidence upon which the undertakings were based. The Tribunal further considered that this denial and lack of reflection has persisted, as shown in the letters from 2013, 2014, 2022, and in the statement provided for these proceedings.

100. The Tribunal therefore determined that Dr Jalloh has shown no meaningful insight into his deficient professional performance.

101. The Tribunal then considered whether there is a risk that Dr Jalloh may repeat his deficient professional performance in the future. The Tribunal, taking into account the lack of remediation and insight, determined that there is a real risk that Dr Jalloh's deficient professional performance would continue in future.

102. The Tribunal then considered whether, having decided that Dr Jalloh has in the past put patients at risk of unwarranted harm, there is a risk that he may do so again in the future. The Tribunal determined that given the risk of repetition due to a lack of insight and remediation, there remains a risk that Dr Jalloh may put patients at unwarranted risk of harm in the future.

103. While the Tribunal did not find that Dr Jalloh had, in the past, breached a fundamental tenet of the profession, it considered that he has made serious departures from GMP (2006), and there remains a risk that he may do so in the future.

104. The Tribunal has therefore determined that a finding of impairment is necessary in order to protect, promote and maintain the health, safety and wellbeing of the public.

105. The Tribunal was mindful that doctors can and do make mistakes, however, it considered that the public would expect those doctors to accept evidence of their failings and work towards improving their practice. The Tribunal determined that while, at the point of assessment in 2010, the concerns were remediable, Dr Jalloh's refusal to accept the findings and carry out proper remediation or develop insight, means that there is a public interest in making a finding of impairment, to uphold public confidence in the profession and to promote and maintain proper professional standards.

106. The Tribunal has therefore determined that the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances of Dr Jalloh's case.

107. The Tribunal has therefore determined that Dr Jalloh's fitness to practise is impaired by reason of deficient professional performance.

Determination on Sanction - 04/09/2023

108. Having determined that Dr Jalloh's fitness to practise is impaired by reason of deficient professional performance, 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

109. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction. No additional evidence was placed before the Tribunal.

Submissions

110. On behalf of the GMC, Ms Fairley submitted that suspension is the appropriate sanction in this case. Ms Fairley submitted that there are no clear mitigating features save for the lapse of time since the performance assessment, and the main aggravating feature is Dr Jalloh's lack of insight, as evidenced in his written submissions to the Tribunal.

111. Ms Fairley submitted that taking no action would be inappropriate as there are no exceptional circumstances in this case. Ms Fairley stated that undertakings have not been offered and are not appropriate in any event. Ms Fairley submitted that while this case may, at first blush, appear to be appropriate for conditions, they have been shown not to be workable in this case. There was no indication that Dr Jalloh has properly considered the conclusions of the performance assessment or shown insight into his deficient professional performance. His engagement with supervision in the past was not entirely positive.

112. In regard to suspension, Ms Fairley submitted that the performance assessment indicated that Dr Jalloh may be able to return to practice with appropriate support, supervision and training. Ms Fairley referred the Tribunal to paragraph 97 (b) of The Sanctions Guidance (2020) ('SG') which she submitted was relevant as it indicates that suspension is the appropriate sanction, as while there is a risk to patient safety if Dr Jalloh's registration is not suspended, there remains a potential for remediation or retraining.

113. Ms Fairley submitted that when considering erasure, the Tribunal should consider paragraph 109 of the SG, and submitted that none of the factors which indicate erasure are present in this case. Ms Fairley submitted that Dr Jalloh's deficient professional performance is not fundamentally incompatible with continued registration, and therefore a suspension would mark the seriousness of the findings and send a signal to Dr Jalloh to engage with retraining. Ms Fairley submitted that a suspension would be adequate to restore confidence in the profession and would protect the public.

The Tribunal's Determination on Sanction

114. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken the SG into account and borne in mind the overarching objective.

115. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and that sanctions are not imposed to punish or discipline doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Jalloh's interests with the public interest.

116. The Tribunal has already set out its decision on facts and impairment which it took into account during its deliberations on sanction. Before considering what action, if any, to take in respect of Dr Jalloh's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

Aggravating Factors

117. The Tribunal considered that paragraph 52 of the SG is relevant in this case:

> ***'52*** *A doctor is likely to lack insight if they:*
> > ***a*** *refuse to apologise or accept their mistakes*
> > ***b*** *promise to remediate, but fail to take appropriate steps, or only do so when prompted immediately before or during the hearing*
> > ***c*** *do not demonstrate the timely development of insight.'*

118. The Tribunal concluded, in its finding of impairment, that Dr Jalloh has not shown insight into his deficient professional performance, and this is demonstrated by his inability to accept the findings of the performance assessment. The Tribunal also concluded, in its finding of impairment, that Dr Jalloh has failed to show remediation, taking into account the lack of training directed at the areas which were identified as deficient, his failed attempts at the GP Induction & Refresher scheme, and the fact that Dr Jalloh has not worked in a medical capacity since 2012. Further, the evidence of BMJ learning modules which were relevant to GP practice, were all undertaken in the last year and therefore was not completed in a timely manner, following the performance assessment in 2010.

119. In considering the SG in relation to aggravating factors, the Tribunal had regard to paragraph 54 and previous findings of impairment. The Tribunal noted that within the agreed bundle there was some evidence that Dr Jalloh has a previous history of fitness to practise proceedings, for a different matter, a criminal conviction. The Tribunal had not been furnished with any information regarding this, nor did it form part of any submissions made by the GMC. The Tribunal did not take any account of this at the early stages of the hearing and therefore it has not formed part of its deliberations and was not considered as an aggravating factor when making the decision on sanction.

Mitigating Factors

120. The Tribunal took into account that at the time of the performance assessment, the assessors had stated Dr Jalloh was *'working as a single-handed GP without support or contact with the rest of the practice'.* He was isolated from the support of his colleagues. It was clear from the assessor's conclusions, and from Dr Jalloh's written submissions, that there had been a deterioration in the relationship between Dr Jalloh and his employer. The Tribunal therefore

concluded that the challenging working conditions which Dr Jalloh faced at the time of the assessment can be taken into account as a mitigating factor.

121. The Tribunal also took account of the positive findings within the performance assessment. There were areas of acceptable performance, and even within the three areas that were overall unacceptable, the assessors were able to identify some acceptable examples of Dr Jalloh's performance.

122. The Tribunal further took into account that Dr Jalloh has, to an extent, co-operated with the formal enquiry into his performance by engaging with the performance assessment and agreeing to undertakings.

No action

123. The Tribunal first considered whether to conclude the case by taking no action. The Tribunal considered paragraphs 68 and 69 of the SG:

> '**68** *Where a doctor's fitness to practise is impaired, it will usually be necessary to take action to protect the public (see paragraphs 14–16). But there may be exceptional circumstances to justify a tribunal taking no action.*
>
> **69** *To find that a doctor's fitness to practise is impaired, the tribunal will have taken account of the doctor's level of insight and any remediation, and therefore these mitigating factors are unlikely on their own to justify a tribunal taking no action.'*

124. The Tribunal considered that taking no action would not protect the public, where there remains an ongoing risk that Dr Jalloh would repeat his deficient professional performance. The Tribunal further considered that taking no action would not reflect the seriousness of the Tribunal's findings and would therefore be inappropriate. The Tribunal could not identify any exceptional circumstances which might justify taking no action.

Conditions

125. The Tribunal had regard to paragraph 81 of the SG, and considered that conditions may be appropriate in cases where specific areas of deficient professional performance have been identified:

> '**81** *Conditions might be most appropriate in cases:*
> > **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'*

126. The Tribunal next considered the factors in paragraphs 82, 83 and 84 of the SG which indicate when conditions may be workable:

> '**82** *Conditions are likely to be workable where:*
> > **a** *the doctor has insight*

> ***b*** *a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*
> ***c*** *the tribunal is satisfied the doctor will comply with them*
> ***d*** *the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.'*

*'**83** When deciding whether remedial training is possible, the tribunal needs to consider any objective evidence that has been submitted. For example assessments of the doctor's performance, health or knowledge of English, or evidence about the doctor's practice, health or knowledge of English.'*

*'**84** Depending on the type of case (eg health, language, performance or misconduct), some or all of the following factors being present (this list is not exhaustive) would indicate that conditions may be appropriate:*

> ***a*** *no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage*
> ***b*** *identifiable areas of their practice are in need of assessment or retraining*
> ***c*** *willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date throughout their working life, improving the quality of their work and promoting patient safety (Good medical practice, paragraphs 7–13 on knowledge, skills and performance and paragraphs 22–23 on safety and quality)'*

127. The Tribunal, in its determination on impairment, concluded that Dr Jalloh has shown no insight into his deficient professional performance. Whilst there was objective evidence in the form of the performance assessment that a period of retraining and supervision is likely to be the most appropriate way of addressing these deficiencies, the Tribunal is not satisfied that Dr Jalloh will comply with conditions addressing this. Dr Jalloh has, as identified in the Tribunal's determination on impairment, stated on several occasions that he thought the undertakings in place were unnecessary, despite initially agreeing to them. In addition, he has shown in the past that he has not undertaken appropriate or sufficient remediation and has struggled to gain entry to retraining programmes. The Tribunal also considered that the seriousness of Dr Jalloh's deficient professional performance, for which there was no evidence of adequate remediation despite 13 years having passed since the performance assessment, meant that conditions were inappropriate.

128. In conclusion, the Tribunal determined that conditions would not be appropriate, workable, or proportionate, in the circumstances of this case.

Suspension

129. The Tribunal took into account the following paragraphs of the SG when considering suspension may be appropriate:

*'**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 (see paragraphs 24–49).*

94 *Suspension is also likely to be appropriate in a case of deficient performance or lack of knowledge of English in which the doctor currently poses a risk of harm to patients but where there is evidence that they have gained insight into the deficiencies and have the potential to remediate if prepared to undergo a rehabilitation or retraining programme.'*

130. The Tribunal also considered the further factors set out in paragraph 97 of the SG which indicate that suspension may be appropriate:

'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.*
> ***b*** *In cases involving deficient performance where there is a risk to patient safety if the doctor's registration is not suspended and where the doctor demonstrates potential for remediation or retraining.*
> ***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.'*

131. The Tribunal considered that Dr Jalloh is currently not safe to practise. There is a clear need to send a message to him, the profession and the public about the standards of performance expected of a registered doctor, especially when several breaches of GMP have been identified. Dr Jalloh has not acknowledged fault, has not shown insight and has not remediated. Therefore, there remains a real risk of repetition, and a risk to patient safety. However, the nature of his impairment; his deficient professional performance in three areas, is not *so* serious or grave as to be incompatible with continued registration. The Tribunal determined that while this case of deficient professional performance might indicate that suspension is appropriate, it has balanced the other factors present as outlined above and concluded that it was required to consider the sanction of erasure.

Erasure

132. The Tribunal first considered paragraph 107 of the SG:

> *'**107** The tribunal may erase a doctor from the medical register in any case – except one that relates solely to the doctor's health and/or knowledge of English – where this is the only means of protecting the public.'*

133. The Tribunal considered that a period of suspension could be adequate to protect the public for its duration, as it would prevent Dr Jalloh from practising medicine. Therefore, erasure may be disproportionate.

134. The Tribunal next considered the factors at paragraph 109 which indicate when erasure may be appropriate:

> *'**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.*
> > ***c*** *Doing serious harm to others (patients or otherwise), either deliberately or through incompetence and particularly where there is a continuing risk to patients (see further guidance below at paragraphs 129–132 regarding failure to provide an acceptable level of treatment or care).*
> > ***d*** *Abuse of position/trust (see Good medical practice, paragraph 65: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession').*
> > ***e*** *Violation of a patient's rights/exploiting vulnerable people (see Good medical practice, paragraph 27 on children and young people, paragraph 54 regarding expressing personal beliefs and paragraph 70 regarding information about services).*
> > ***f*** *Offences of a sexual nature, including involvement in child sex abuse materials (see further guidance below at paragraphs 151-159).*
> > ***g*** *Offences involving violence.*
> > ***h*** *Dishonesty, especially where persistent and/or covered up (see guidance below at paragraphs 120–128).*
> > ***i*** *Putting their own interests before those of their patients (see Good medical practice paragraph 1: – 'Make the care of [your] patients [your] first concern' and paragraphs 77–80 regarding conflicts of interest).*
> > ***j*** *Persistent lack of insight into the seriousness of their actions or the consequences.'*

135. The Tribunal determined that the only factor present which might indicate that erasure is appropriate is Dr Jalloh's persistent lack of insight into the seriousness of his actions. The factors at **a** to **i** of paragraph 109, were, in the Tribunal's view, indicative of conduct that was more serious than Dr Jalloh's deficient professional performance. The

Tribunal was mindful that paragraph 109 indicates that *any* of these factors being present may mean that erasure is appropriate, and therefore it carefully balanced the aggravating factors of Dr Jalloh's lack of insight and remediation against all the other factors it has identified in this case.

136. The Tribunal, in scrutinising all the relevant paragraphs of the SG, considered that there were factors present in Dr Jalloh's case which might indicate either a period of suspension **or** erasure to be appropriate. Therefore, the Tribunal carefully considered the level of seriousness of Dr Jalloh's deficient professional performance, noting that it had found as a mitigating factor that there were areas of acceptable practice, and that there was evidence of some acceptable practice even within the 3 areas deemed overall unacceptable. The Tribunal gave significant weight to this being conduct which was not fundamentally incompatible with continued registration. In considering proportionality, and in weighing Dr Jalloh's interests with the public interest, it determined that suspension was the more appropriate and proportionate sanction. The Tribunal reminded itself of the requirement to impose a sanction that was no more than necessary and appropriate in the circumstances. The Tribunal took into account that one of the expectations of a period of suspension, is to allow an opportunity for insight to develop and for further remediation to be undertaken.

137. The Tribunal determined that a period of suspension would protect the public and sends a signal to Dr Jalloh and the profession that deficient professional performance that is not properly remediated is not acceptable. The Tribunal was satisfied that a period of suspension would vindicate the public interest – in upholding public confidence and declaring proper professional standards.

138. When considering the length of suspension, the Tribunal determined that a period of 12 months was necessary to mark the seriousness of the case, in light of the aggravating factors found. This period would allow Dr Jalloh sufficient time to embark upon targeted remediation and to demonstrate that he had developed insight into his failings.

139. The Tribunal determined to direct a review of Dr Jalloh's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Jalloh to demonstrate how he has remediated and developed insight. It therefore may assist the reviewing Tribunal if Dr Jalloh were to attend the review hearing and provide the following:

- An up-to-date statement reflecting upon the findings of the performance assessment and of this Tribunal.
- Evidence that he has kept his skills and knowledge up to date.
- Evidence of targeted remediation and training which is relevant to the three areas of Dr Jalloh's performance that have been identified as unacceptable.
- Testimonials or references.

Determination on Immediate Order - 04/09/2023

140. Having determined that Dr Jalloh's registration be suspended for 12 months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Jalloh's registration should be subject to an immediate order.

Submissions

141. On behalf of the GMC, Ms Fairley submitted that an immediate order is necessary in this case to allay concerns about the risk to patient safety posed by Dr Jalloh. Ms Fairley asked the Tribunal to note that Dr Jalloh has been out of practise for a considerable period of time and the performance assessment concluded that there are concerns relating to patient safety.

The Tribunal's Determination

142. The Tribunal has taken account of the relevant paragraphs of the SG as referred to by Ms Fairley, namely paragraphs 172, 173 and 178 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. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.*
>
> 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.'*

143. The Tribunal carefully considered the above paragraphs of the SG before concluding, in light of the ongoing risk to patient safety identified within these proceedings, it is necessary in order to protect the public to direct an immediate order of suspension.

144. This means that Dr Jalloh's registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction, as already announced, will take effect 28 days from that date, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

145. The interim order will be revoked when the immediate order takes effect.

146. That concludes the case.

ANNEX A – 30/08/2023
Service and Proceeding in Absence

147. Dr Jalloh is neither present nor legally represented at this hearing.

148. The Tribunal was provided with a copy of the Service bundle from the General Medical Council (GMC). This included an email entitled 'Notice of Hearing' dated 26 May 2023 where the attachment was the allegation that Dr Jalloh faces. The Notice of Hearing was also sent by registered post on 30 May 2023, and the Tribunal was provided with proof of delivery dated 2 June 2023.

149. The Tribunal was also provided with a copy of the Medical Practitioners Tribunal Service (MPTS) notice of hearing letter, dated 24 July 2023, which was sent to Dr Jalloh's by email and by registered post. Dr Jalloh responded to the email on 26 July 2023, confirming receipt, and proof of delivery dated 27 July 2023 was also provided to the Tribunal.

150. The Tribunal also had regard to the minutes of the Case Management Pre-Hearing Meeting held on 15 June 2023, which listed Dr Jalloh as an attendee and detailed his attempts to secure legal representation.

GMC's Submissions

151. Ms Fairley, on behalf of the GMC, submitted that under Rule 15 of Fitness to Practise Rules (2004, as amended) ('the Rules'), notice of the Allegation had been served on Dr Jalloh on a number of occasions, and further that under Rule 40, he had been served by both post and email.

152. On behalf of the GMC, Ms Fairley invited the Tribunal to proceed with the hearing in Dr Jalloh's absence. She submitted that efforts have been made to serve Dr Jalloh with notice of this hearing, and in addition the Tribunal are aware of communications from Dr Jalloh himself in respect of this hearing. Ms Fairley submitted that at the Pre-Hearing Meeting, Dr Jalloh indicated that he would not attend the hearing if he could not secure legal counsel. Ms Fairley submitted therefore that it is clear that Dr Jalloh is aware of the date of the hearing and his right to attend but has voluntarily absented himself.

153. Ms Fairley further submitted that Dr Jalloh has made no request to postpone the hearing today, and therefore there is no benefit to adjourning the hearing, as there is no indication from Dr Jalloh that he will attend on a future date. Finally, Ms Fairley submitted that, when balancing the interests of Dr Jalloh against the wider public interest, it is in the public interest that this hearing proceeds, and further that it is in Dr Jalloh's interest that these matters are resolved.

Tribunal's Determination

Service

154. The Tribunal had regard to Rule 40(2) of the Rules which provides that a notice or document required to be served under the Rules may be served by ordinary post or by electronic mail to an electronic mail address that the practitioner had notified to the Registrar as an address for communications. Rule 40(4) provides that service of any notice or document under the Rules may be provided by a number of methods including a confirmation of receipt of the notice or document sent by electronic mail.

155. In light of the evidence of emails containing the Notice of Allegation and the Notice of Hearing being served by email to Dr Jalloh, and his responses to those emails, as well as his attendance at the Pre-Hearing Meeting, the Tribunal was satisfied that Dr Jalloh had been properly served with the relevant Notices in accordance with Rules 15 and 40 of the Rules.

Proceeding in Dr Jalloh's Absence

156. Having determined that Dr Jalloh had been properly served with the relevant Notices in accordance with the Rules, and that Dr Jalloh was therefore aware of the hearing date and time, the Tribunal was satisfied that all reasonable efforts have been made to serve him with the notice of hearing, in accordance with Rule 31. The Tribunal was aware that the decision as to whether or not the hearing should proceed in Dr Jalloh's absence, was a matter for its discretion. Such discretion was to be exercised with great care and caution.

157. In *GMC v Adeogba / Visvardis* [2016] EWCA Civ 162, it was confirmed that the onus is on the doctor to attend the hearing and arrange representation if they wish to do so. Although attendance by a doctor is of prime importance, it cannot be determinative, due to the adverse impact of delays on the effective and efficient running of hearings.

158. Where the Tribunal is to be conducted virtually, the same considerations apply. Fairness to Dr Jalloh must be considered as well as to the GMC representing the public interest. The Tribunal took account of the statutory overarching objective, including public protection and the wider public interest, including maintaining confidence in the medical profession.

159. The Tribunal noted that Dr Jalloh had responded to the correspondence sent to him and had attended the Pre-Hearing Meeting, at which he stated he would attend the hearing if he was able to gain legal representation. Dr Jalloh had produced written submissions via email on 26 July 2023, re-affirming this position, but in an email dated 23 August 2023, he confirmed that he was unable to gain representation and would therefore not be attending. In light of the information before it, the Tribunal was satisfied that Dr Jalloh had voluntarily absented himself from this hearing.

160. The Tribunal considered whether an adjournment would result in Dr Jalloh attending the hearing. There had been no application for an adjournment by Dr Jalloh and there was no evidence before the Tribunal that an adjournment would result in Dr Jalloh attending a hearing date in future.

161. The Tribunal noted that any decision to proceed in Dr Jalloh's absence might result in disadvantage to him, although Dr Jalloh has provided some written submissions to the

Tribunal, which it can take into account. However, the Tribunal considered that any disadvantage must be balanced against other factors including the statutory overarching objective and the public interest. The Tribunal noted that the public interest included the need for a fair, economic, expeditious and efficient disposal of the hearing.

162. In the circumstances, the Tribunal determined it was appropriate to proceed in Dr Jalloh's absence.