

PUBLIC RECORD

Dates: 27/11/2023 - 06/12/2023

Medical Practitioner's name: Mr Perbinderpal GREWAL

GMC reference number: 4532992

Primary medical qualification: MB BS 1998 University of London

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

Summary of outcome

Suspension, 12 months
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Ms Louise Sweet KC
Lay Tribunal Member:	Mr Peter Scofield
Medical Tribunal Member:	Dr Jill Edwards

Tribunal Clerk:	Ms Evelyn Kramer
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Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr David Morris, Counsel, instructed by Kingsley Napley LLP
GMC Representative:	Mr Lee Fish, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 01/12/2023

1. As Mr Grewal is a surgeon, he will be referred to throughout these determinations by the title 'Mr', rather than the title 'Dr'.

Background

2. Mr Grewal qualified in 1998 from the University of London MB BS. At the time of the events which are the subject of the Allegation, Mr Grewal was practising as a Consultant in Vascular and Endovascular Surgery at University Hospital Southampton NHS Foundation Trust ('the Trust') from April 2017 until October 2019.

3. The Allegation that has led to Mr Grewal's hearing can be summarised as follows, on one or more occasion between 1 December 2018 and 8 October 2019, Mr Grewal attended work whilst unfit for duty and under the influence of an illicit drug. It is further alleged that Mr Grewal supplied an illicit drug to Ms A. It is also alleged that, on or around 18 March 2019, Mr Grewal behaved violently towards Ms A.

4. On 8 October 2019, Ms A contacted the Trust to raise concerns about Mr Grewal's fitness to attend work. Following a local investigation by the Trust, a referral was made to the GMC on 21 July 2020.

The Outcome of Applications Made during the Facts Stage

5. The Tribunal refused an application, made on behalf of Mr Grewal, by Mr Morris, Counsel, pursuant to Rule 17(2)(g) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that there was no case to answer in respect of paragraph 2.a of the Allegation. The Tribunal's full decision on the application is included at Annex A.

The Allegation and the Doctor's Response

6. The Allegation made against Mr Grewal is as follows:

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

1. On one or more occasion between 1 December 2018 and 8 October 2019 you:

a. attended work whilst:

i. unfit for duty due to not having adequate rest;

To be determined

ii. under the influence of XXX;

To be determined

b. supplied XXX to Ms A.

To be determined

2. On or around 18 March 2019 you behaved violently towards Ms A, in that you:

a. slapped her;

To be determined

b. grabbed her by her hair;

To be determined

c. pulled out her hair;

To be determined

d. threw her down onto a bed;

To be determined

e. choked her.

To be determined

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

Factual Witness Evidence

7. The Tribunal received evidence on behalf of the GMC from the following witnesses:
- a) Ms A, in person. Witness statement dated 20 September 2021. Supplemental statement dated 26 May 2022.
 - b) Ms D, by video link. Receptionist at the Travel Lodge at the time of events on 18 March 2019. Witness statement dated 11 May 2022.
8. The Tribunal also received evidence on behalf of the GMC in the form of a witness statement from Mr C, dated 22 February 2021. Mr C had been Acting Medical Director at the Trust at the time of events and had conducted the Trust investigation into Mr Grewal's conduct. He was not called to give oral evidence.
9. Mr Grewal provided his own witness statement, dated 11 October 2022. Supplemental statement dated 7 July 2023. Mr Grewal also gave oral evidence at the hearing. In addition, the Tribunal received evidence from Ms B, her witness statement was dated 9 October 2022.

Expert Witness Evidence

10. The Tribunal also received expert evidence, provided on behalf of Mr Grewal, from Professor E, a clinical pharmacologist. Professor E had been instructed to give his expert opinion solely on *'the longevity and material effects of XXX on the human body when taken orally, XXX through the nasal passage.'* Professor E completed his report on 11 October 2022 and gave oral evidence to the Tribunal.

Documentary Evidence

11. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:
- a) Messages exchanged by phone between Ms A and Mr Grewal, various dates;
 - b) Ms A's complaint to the Trust, dated 8 October 2019;
 - c) An extract of Ms A's medical records, dated 1 February 2019;

- d) Notes of telephone interviews conducted by the Trust with Ms A, dated 16 January ('Telephone Interview 1'), 5 February ('Telephone Interview 2') and 21 May 2020 ('Telephone Interview 3');
- e) Transcript of Trust interview with Mr Grewal, dated 20 July 2020;
- f) Ms D's email account sent to the Trust, dated 5 June 2020;
- g) Various photographs of Mr Grewal at work, undated.

The Tribunal's Approach

12. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Mr Grewal 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.

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1.a

14. The Tribunal was required to determine whether, on one or more occasion between 1 December 2018 and 8 October 2019, Mr Grewal attended work whilst unfit for duty due to not having adequate rest or under the influence of XXX.

15. Throughout its consideration of this paragraph of the Allegation the Tribunal noted that there was no direct evidence that Mr Grewal's clinical abilities were adversely impacted by XXX or not being adequately rested. The GMC submitted his unfitness could be inferred from the evidence of Ms A, Mr Grewal, and the content of messages sent between them.

16. Mr Grewal had admitted that he was XXX that he had purchased from the dark web throughout this period, albeit at weekends, up until, on his evidence, 5 October 2019. He explained this was for weight loss rather than recreational use. Both Ms A and Mr Grewal agreed that, on at least one occasion, namely 25 January 2019, they had taken XXX together at a hotel in London.

17. There were two specific dates in which the GMC suggested there was evidence to support Mr Grewal's unfitness, following his use of XXX, 10 July 2019 and 7 October 2019. The GMC also relied on a wider inference resulting from the use of XXX which was agreed to have an adverse impact on sleep patterns.

10 July 2019

18. In respect of 10 July 2019, Ms A's evidence was that she visited Mr Grewal's house on 9 July 2019, that they had taken XXX and that she had stayed the night. She stated that Mr Grewal had been up until the early hours of the morning and that she had left the following morning, on 10 July 2019, in a taxi he had called for her.

19. Mr Grewal agreed that Ms A had come to his house one evening in July 2019. He denied they had been up until the early hours. He denied he had taken XXX. He stated that Ms A left around midnight. The 9 July 2019 was a Tuesday, Mr Grewal consistently stated that his XXX use was confined to weekends.

20. The Tribunal noted the messages Ms A and Mr Grewal had exchanged on 10 July 2019. At 02:45, Ms A sent Mr Grewal a message that read '*Love you Mister xxx*', there was no reply to this message. At 13:16, Ms A sent a further message to Mr Grewal which said '*So so tired !!!! Xxx*' to which Mr Grewal replied at 13:26 '*Fell asleep at work*' and attached a photograph ('the photograph') where he appeared to be asleep at a desk at the hospital where he was working.

21. There was unchallenged evidence from Ms B that she had taken the photograph of Mr Grewal at work. She stated that it was taken in another context on a different occasion. Her evidence was that the photograph was taken as a joke during a busy Wednesday clinic. She stated that she was in the habit of taking humorous photographs to ease tension in the department. Other examples were produced for the Tribunal. She was clear that, had Mr Grewal really been asleep, she would never have taken the photograph, as sleeping would be not condoned at work.

22. Sometime after the photograph was taken, Ms B had sent it to Mr Grewal. He had sent the photograph on to Ms A on 10 July 2019 in response to her message about being tired after they had spent time together the previous evening.

23. The Tribunal received no evidence which established that the photograph had been taken on 10 July 2019. It determined, therefore, the photograph did not provide support for the allegation. The Tribunal was of the view that Mr Grewal stating he was tired in a message was not the same as him saying was too tired so as to be unfit for work.

24. The message sent by Ms A at 02.45 tended to support the suggestion by Mr Grewal that they had parted company, albeit the Tribunal accepted that it was possible for two persons to message each other in the same house.

25. In the absence of any other evidence of unfitness, the Tribunal determined that there was insufficient evidence to be satisfied to the requisite standard in respect of the 10 July 2019 that Mr Grewal was unfit.

7 October 2019

26. Ms A and Mr Grewal had not been in contact for some time before 6 October 2019. On 26 September 2019, he had had sought to get her attention by depositing £10 in her bank account with the reference *'I have cancer'*. Ms A was away on holiday. Based on the messages presented the Tribunal, their contact resumed on 6 October 2019.

27. It was Mr Grewal's evidence that he had stopped taking XXX on 5 October 2019. The only evidence that Mr Grewal had consumed XXX on dates between 5-7 October came from messages he had sent to Ms A.

28. On Sunday 6 October 2019, at 17:54, Mr Grewal sent a message to Ms A that said *'At least I can XXX as much as I like!!!'*. At 21:33, in response to a message that said *'Hope you're feeling ok xxx'*, Mr Grewal replied *'Not really' 'On XXX most of my free time'*.

29. On Monday 7 October, at 00:43, Mr Grewal messaged Ms A asking *'Are you awake'*. She replied at 08:28 saying *'I was asleep last night when you messaged xx'*. Mr Grewal responded at 08:30 *'Was late. Xx' 'Was on it' 'Been on it since sat'*. Ms A replied *'Fuck !!! That's not good . Have you been working ?xx'*. At 08:37, Mr Grewal responded *'Just got to work.'* *'Not slept since fri night'*. At 08:38, Ms A asked *'Are you operating ?xx'*. Mr Grewal responded *'Hope not. Am surgeon of the week.'* At 08:42, he messaged Ms A *'When can you fuck me?'*.

30. On 8 October 2019, at 12:10 Mr Grewal messaged Ms A saying *'Am scared and lonely and upset'*, at 12:11, *'Am sat in theatre toilets crying'*. After a further exchange of messages, at 12:18, Ms A messaged Mr Grewal *'How can you go to work after being on XXX all weekend ??? It's not safe for patients !!! Just go home please'*. At 15:12, she messaged Mr Grewal saying *'I have to tell you I have contacted the hospital and GMC...'*

31. Ms A sent an e mail to the Trust on 9 October 2019, following her telephone call on 8 October 2019. In that call and in her email she reported her concerns that Mr Grewal was unfit for work. She attached messages from Mr Grewal, including those that said *'Not slept since fri night'*, in response to a question about whether he was operating, Mr Grewal had said *'Hope not. Am surgeon of the week'* and *'On XXX most of my free time'*.

32. The Tribunal considered that Ms A's motivation for notifying the Trust and the GMC arose out of a genuine concern both for Mr Grewal's wellbeing and for the safety of patients. Her first question to him when he confirmed he was at work was to check if he was operating. She took Mr Grewal's messages at face value and believed that he was unfit to attend work due to lack of rest and XXX.

33. The Tribunal had regard to Mr Grewal's messages to Ms A that suggested he had been *'on it'* (using XXX) over the weekend of 5 and 6 October 2019.

34. The Tribunal considered that there was more than one interpretation of Mr Grewal's message replying to Ms A's question about if he was operating. He wrote *'Hope not. Am surgeon of the week'*. On one view, his message, in the context of the other messages exchanged with Ms A, could indicate his own desire not to operate as he was tired or not fit due to XXX. Mr Grewal's evidence was that his message referred to his wish not to be required to undertake any emergency surgery in his role as *'surgeon of the week'*.

35. The Tribunal noted that there was no independent evidence from the Trust to suggest that Mr Grewal had attended work whilst unfit to do so on 7 or 8 October 2019. There was no evidence from the period that suggested there had been any concerns about Mr Grewal's clinical ability or standards of care.

36. The Tribunal considered that, taking Mr Grewal's messages at face value, it appeared that the latest he had taken XXX was in the early hours of Sunday 6 October 2019. This suggested that Mr Grewal had the rest of the day to recover, sleep and allow the XXX to pass through his system.

37. The Tribunal accepted the expert evidence of Professor E, who stated that XXX would be eliminated from the body within a 24 hour period. Whatever Mr Grewal was saying to Ms A and for whatever reason, the pharmacological evidence did not support the conclusion that Mr Grewal was unfit for work.

38. The Tribunal found that Ms A was absolutely right to have concerns about Mr Grewal's fitness to attend work on 7 October 2019. However, on close analysis, those concerns were not adequately supported by the evidence before the Tribunal.

39. Therefore, in respect of 7 October 2019, the Tribunal found paragraph 1.a. of the Allegation not proved.

Paragraph 1.b

40. The Tribunal was required to determine whether, on one or more occasion between 1 December 2018 and 8 October 2019, Mr Grewal supplied XXX to Ms A.

41. There was no dispute that each of them had taken XXX on one or more occasions when they were together. They differed as to who supplied XXX, who was the more "experienced" XXX user and as to the method of consumption by Mr Grewal. Ms A stated that Mr Grewal always supplied the XXX. Mr Grewal stated that each brought their own XXX. Mr Grewal said he had taken his XXX as an appetite suppressant as he wanted to lose weight.

42. The Tribunal had regard to the context in which Mr Grewal and Ms A first met. They met on a website called 'Seeking Arrangement'. In her witness statement, Ms A described the website as being *'for women who wanted to meet and date rich men'*, she said *'The idea of the website was that the men would give the women gifts or take them to nice places, and it would likely involve a sexual arrangement.'*

43. In her statement, Ms A set out that discussions about Mr Grewal's use of XXX began before they had first met in person. Ms A's evidence was that during her first telephone conversation with Mr Grewal, he explained to her where he had got the idea of buying XXX from the dark web.

44. Mr Grewal accepted he was using XXX that he had purchased from the dark web. It was his evidence that he was using XXX for the purpose of suppressing his appetite to lose weight. During his interview with the Trust, in response to the question *'And the method of*

ingestion was always by way of drinking?, Mr Grewal said *'With milk.'* He was then asked, *'Rather than the more traditional method of consuming XXX?'*, Mr Grewal said *'Yes, always milk'*.

45. It was the agreed evidence of Ms A and Mr Grewal that they took XXX together on 25 January 2019, when they had met at a hotel in London. The Tribunal noted there was a change in Mr Grewal's evidence as to his method of his XXX consumption on that day. During cross-examination he accepted that he had XXX with Ms A. He explained this was because had not taken any milk with him. He suggested that Ms A interrupted him when he was mixing it with water and encouraged him to take the XXX nasally rather than mix it with water and drink it.

46. In respect of her use of XXX with Mr Grewal, Ms A said that although she had told him that she had used XXX before that was a lie. Mr Grewal's evidence was that Ms A told him when they met for the first time in December 2019 that she was a *'Champagne Charlie girl'*. Ms A accepted in oral evidence that she had said this but that it had been taken out of context. Mr Grewal said that he believed Ms A was *'a frequent XXX user'* and that she *'always brought her own XXX'* when they met. Ms A denied this, in her witness statement and in oral evidence she maintained that she *'did not have any experience taking XXX'*. She told the Tribunal she would not have known where to obtain XXX.

47. The Tribunal accepted the evidence of Professor E that XXX users might lose weight, as it was an appetite suppressant. However, the Tribunal rejected Mr Grewal's evidence that his use of XXX was simply for weight loss.

48. In considering specifically whether Mr Grewal supplied XXX to Ms A on 25 January 2019, the Tribunal also had regard to the background to their meeting. This was in the early stage of Ms A's relationship with Mr Grewal. Her evidence was that she could not afford to travel to London to meet him. She said that after a discussion via messages, Mr Grewal sent Ms A money for her travel to London. Ms A and Mr Grewal had met on a website where *'gifts'* were expected in return for company and, if agreed, a sexual arrangement. Mr Grewal accepted he had paid for her travel. The Tribunal concluded that it was unlikely that Ms A, in the context of how her relationship with Mr Grewal began, would require her travel to be paid for but supply her own XXX.

49. The Tribunal found Mr Grewal’s explanation of being interrupted by Ms A at the hotel whilst he was mixing his XXX with water and encouraged by her to XXX instead, was implausible. This explanation had adversely affected Dr Grewal’s credibility.

50. The Tribunal found that it was more likely that he was using XXX recreationally and had now sought to rationalise his use of an illicit substance as being for appetite suppression and weight loss. It found it unlikely that Mr Grewal would choose XXX as a weight loss method, given the fact it was illegal, unless it was also being used for recreational purposes.

51. The Tribunal, therefore, rejected Mr Grewal’s explanation as to why he had XXX with him on 25 January 2019. It also found it was more likely he supplied the XXX and that they had taken his XXX together for recreational reasons. The Tribunal determined that it was more likely than not that Mr Grewal had supplied Ms A with XXX in a social, recreational context for their shared use.

52. The Tribunal found paragraph 1.b of the Allegation proved.

Paragraph 2

53. The Tribunal was required to determine whether Mr Grewal, on or around 18 March 2019, “behaved violently” towards Ms A. It considered that it was appropriate to establish if it could be satisfied that there had been an assault, as alleged and only go on to consider the subparagraphs if it was satisfied to the requisite standard.

54. It was the evidence of both Ms A and Mr Grewal that, on 18 March 2019, they met at a Travelodge in Portsmouth. Both accepted that they had gone to a restaurant for dinner, during which Ms A and Mr Grewal had argued, Ms A had left to go back to the hotel and Mr Grewal had remained in the restaurant before later returning to their room.

55. The Tribunal heard two very different accounts. It reminded itself that it was for the GMC to prove its case, to the civil standard, which depended substantially but not solely, on the account of Ms A.

Overview

56. Ms A’s evidence, in summary, was that on his return to their hotel room Mr Grewal had grabbed and pulled her hair and had thrown her down onto the bed. She had also been

slapped and choked by Mr Grewal. Ms A stated she was able to get to the bathroom and lock herself in. She said she did so because she was concerned for her safety. This, she said, gave Mr Grewal the opportunity to take her things and deposit them outside of the hotel room. There was no dispute that Mr Grewal had taken her bags and left them somewhere on the stairwell before leaving the hotel himself.

57. Mr Grewal denied any such assault. He said that there had been only a verbal argument during which things had been thrown at him. He had collected her bags to prevent further items being thrown or damage to the room. He had left her without any injury that he saw. He placed the bags in the stairwell and left the hotel. Any presentation of messy hair or marks on her neck were potentially caused by earlier rough sex or because she had become upset when attacking him with things from her bag.

58. The Tribunal was careful to assess Ms A's credibility having regard to what she had said to a receptionist, Ms D, on 18 March 2019, and later to the Trust, to the GMC in her witness statements, and in oral evidence in these proceedings.

59. The Tribunal looked at the consistency of Ms A's core account to the Trust and then to the GMC.

60. In Ms A's first interview with the Trust, Telephone Interview 1, she said:

'I went back to the hotel room to get my things and this is when he beat me. He slapped my face, pulled out half my hair and took my bag and phone. I went down to reception.'

61. In Ms A's second interview with the Trust, Telephone Interview 2, in response to the question *'It was when you were at the Travel Lodge that he slapped your face?'*, Ms A said:

'Yes, he did more than that. He choked me, slapped me and pulled out my hair. He sent further texts to say if I hadn't left he didn't know what he would have done as he would not have been able to stop himself as it turned him on.'

62. In Ms A's third interview with the Trust, Telephone Interview 3, Ms A said:

'I was in complete shock. I locked myself in the bathroom. I was shocked because it was so out of character. He had become horrible. He had never been like that before'

or after. He had not been violent again. I waited until he had gone. He took my phone and it ended up in my handbag. The housekeeping lady had taken it to reception. He threw me on the bed and I went into the bathroom and he left.'

63. In her witness statement, Ms A said:

'35. Dr Grewal then grabbed me by my hair. He pulled me by the hair towards the door. It was very painful and frightening. I thought he was going to throw me out of the room. Instead, he forcibly threw me down onto the bed that was closest to the door. He then held me down by my throat and I couldn't breathe. I may have fallen onto the floor or he could have dragged me onto the floor. I don't really remember. He must have stopped for a moment. I don't know how long he choked me for. Looking back, I think there could have been a sexual element to his actions. He had told me that choking was something that he liked to do sexually.'

36. I was in complete shock as he attacked me. I don't really remember what happened. I don't recall him saying anything as he assaulted me. The bed that he had pinned me on was right beside the bathroom. The bathroom door was open. I don't remember how I got away from Dr Grewal but I managed to get into the bathroom and lock the door behind me. I don't think the attack could have lasted a long time. Dr Grewal is a big man, and if it had lasted a long time, he would have done a lot more damage to me.'

64. In her oral evidence, Ms A was consistent in her account of 18 March 2019, save for whether Mr Grewal had slapped her. She told the Tribunal that she could no longer clearly remember whether Mr Grewal had slapped her, or whether he had, instead '*pushed her face*'.

65. Ms A stated this was not a sustained attack. Her evidence was that the assault was short, it lasted '*a minute*' and she said there had been no lasting marks or physical injury.

66. The Tribunal found that Ms A was a credible witness. It was of the view that Ms A's core account, as to the events of 18 March 2019, was consistent in describing an assault and she had made appropriate concessions when her memory failed her as to what happened that night. The Tribunal determined she was doing her best to give truthful accounts of her memory of that evening.

67. The Tribunal also had regard to the unchallenged evidence of Ms D, who had been working on reception at the Travelodge on 18 March 2019. Ms D confirmed in oral evidence that she did not know Ms A, she said she did not know her name and had no contact with her after 18 March 2019. She was, therefore, an independent witness to the aftermath of the events in the bedroom. In her account, dated 5 June 2020, written to the Trust as part of its investigation, Ms D wrote:

'...the lady rushed out from the lift she was very distressed and crying, her hair had been messed up and I can't say for certain but I believe I remember her neck being marked. She told me she had been assaulted by the male and he had left with all her things, I insisted she get in contact with the police but she was distressed and very hesitant, all she wanted was her belongings back and to leave...'

68. The Tribunal noted that Ms A had immediately complained to Ms D of an assault by Mr Grewal. Ms D also recalled Ms A having a 'marked' neck, being 'very distressed and crying' and that 'her hair had been messed up'. Ms D had been so concerned by Ms A's presentation to her that she had encouraged Ms A to contact the police, which Ms A declined to do.

69. Mr Grewal did not dispute Ms A had presented to reception in the way Ms D had described. As set out, he provided two alternative explanations for Ms A's presentation, including the possible marks on her neck.

70. In his interview with the Trust, Mr Grewal had said that his relationship with Ms A was 'sexually rough' and that the mention of the mark on her neck 'probably appeared going to the Indian restaurant. It had nothing to do with me.'

71. In his witness statement, Mr Grewal said:

'33. On or around 18 March 2019, we met at a Travelodge. I arrived first and informed [Ms A]. She arrived and we went down to the bar to have a drink. We later came up to the room before dinner and proceeded to have consensual rough sex. We had previously engaged in rough sex on the other occasions that we had met. It is possible that this consensual sex resulted in marks to [Ms A]'s neck and hair loss from her hair being pulled.'

72. Ms A's evidence was that she and Mr Grewal had not had sex on 18 March 2019. She did not accept that they had on 18 March 2019, or previously, engaged in 'rough sex'.

73. Although Mr Grewal appeared to accept Ms A presented to reception, he stated he had not seen any messed hair or injury himself and he had left Ms A not in the bathroom but in the bedroom.

74. Mr Grewal's evidence was that having engaged in '*rough sex*', which he said may have resulted in marks to Ms A's neck and hair loss from him pulling her hair during sex, they had gone to dinner. They had argued in the restaurant and Ms A left to return to the hotel. Mr Grewal's evidence was that he stayed and ate his dinner, as it had been ordered already. There was therefore, on his account, a time lapse between any sex that may have happened before dinner and the later events. The Tribunal was of the view this fundamentally undermined the suggestion by Mr Grewal that earlier sex could be linked to Ms A's presentation at reception.

75. Mr Grewal further stated, after he returned to their hotel room, their argument continued and Ms A attempted to throw things and assault him. He, therefore, collected her things, put them in the stairwell and left the hotel. He disputed that Ms A had locked herself in the bathroom at any point.

76. Mr Grewal suggested, in the alternative, that Ms A's appearance, including her '*marked*' neck may have been a result of their heated argument before he left the hotel. He suggested that Ms A's neck could have been reddened due to heightened emotions.

77. The Tribunal found that Mr Grewal's explanations were not consistent with the evidence before it and were improbable.

78. The Tribunal was not persuaded by either of Mr Grewal's explanations when contrasted to the evidence of Ms A, and Ms D. The Tribunal considered the account of Ms A to be the more logical based on the facts before it.

79. Further, the Tribunal found that Ms A's account was also supported by the messages she had exchanged with Mr Grewal in June and July 2019.

80. Ms A was consistent in her evidence that Mr Grewal's assault followed an argument about her challenging him over a lie she believed he had told her about having a young relative who procured XXX from the dark web. In a message sent on 27 July 2019, Ms A wrote:

'I always know when you're lying to me !!! Can we just cut through the bullshit !!! I'm not stupid. And the story you told me XXX ?'

Mr Grewal replied: *'What story of XXX?'*

Ms A wrote: *'The first phone conversation we had you said that you're XXX , I thought it bizarre that you would tell me that'*

Mr Grewal replied: *'XXX... Why does it matter? Who had died?'*

Ms A then wrote: *'This is why I walked out of the restaurant, you acted like I had made it up! Are you going to stop lying to me...'*

81. Mr Grewal's account differed. He suggested that both the argument at dinner and then later in the hotel room, has been about a false assertion by Ms A that he had sex with her, whilst she was on the phone with her 'XXX'. There was no support for this version of events in any of the messages provided to the Tribunal. Nor had he corrected her in the messages about her reason for leaving the restaurant.

82. The Tribunal accepted Ms A's account about the motives for the argument.

83. Taking all the above into consideration, the Tribunal determined that it preferred the evidence of Ms A. As such, it concluded that, it was more likely than not that Mr Grewal behaved violently towards Ms A on 18 March 2019. The Tribunal then went on to look at the individual allegations within paragraph 2 of the Allegation.

Paragraph 2.a

84. The Tribunal noted that in her witness statement Ms A had not mentioned being slapped by Mr Grewal. She conceded, in her oral evidence, that she could no longer remember whether he had slapped her or pushed her face. She did say, in both the first and second telephone interviews with the Trust, that he had slapped her. These interviews were nearer in time to the events of 18 March 2019.

85. It took into account that this was a fast moving, short and shocking incident which was bound to adversely impact her memory. None the less, the Tribunal had already found Ms A to be a credible and consistent witness. It found her evidence to the Tribunal, as to her

lack of memory, to be a result of the passage of time rather than her having made up the fact Mr Grewal has slapped her.

86. The Tribunal also found support for Ms A being slapped in Mr Grewal's message to Ms A on 21 June 2019, '*I was scared that we would keep fighting when I wanted to fuck you holding your hair down and slapping you*'. It was Mr Grewal's evidence that he had been referring to what he had intended to do to Ms A, rather than what he had done on 18 March 2019. The Tribunal did not accept this analysis. Taken at face value this was an admission that Mr Grewal had both pulled Ms A's hair and slapped her on 18 March 2019.

87. Having concluded that her evidence as to the events of 18 March 2019 could be relied on, the Tribunal determined that, on the balance of probabilities, Mr Grewal had slapped her.

88. The Tribunal found paragraph 2.a of the Allegation proved.

Paragraph 2.b and 2.c

89. The Tribunal found that Ms A's evidence as to Mr Grewal having pulled out her hair during the assault was consistently stated in her evidence. To have pulled out her hair, the Tribunal concluded he must have grabbed her by her hair.

90. The suggestion of hair pulling was supported by her presentation to Ms D at reception. It was further supported by the message of 21 June 2019, already referred to. Mr Grewal's explanations for her presentation were rejected by the Tribunal as unconvincing.

91. The Tribunal found paragraphs 2.b and 2.c of the Allegation proved.

Paragraph 2.d

92. The Tribunal considered that Mr Grewal, in grabbing Ms A by her hair and pulling, would have, logically, pulled her somewhere. She stated this was the bed. The Tribunal accepted Ms A's evidence that she was pulled onto the bed.

93. The Tribunal found paragraph 2.d of the Allegation proved.

Paragraph 2.e

94. The Tribunal accepted Ms A's account of events for the reasons set out. Her account was also supported by the evidence of Ms D that she saw Ms A having a marked neck. She had advised her to call the police. The Tribunal determined that it was more likely than not that Mr Grewal had choked Ms A during the assault.

95. The Tribunal found paragraph 2.e of the Allegation proved.

The Tribunal's Overall Determination on the Facts

96. The Tribunal has determined the facts as follows:

1. On one or more occasion between 1 December 2018 and 8 October 2019 you:
 - a. attended work whilst:
 - i. unfit for duty due to not having adequate rest;
Not proved
 - ii. under the influence of XXX;
Not proved
 - b. supplied XXX to Ms A.
Determined and found proved
2. On or around 18 March 2019 you behaved violently towards Ms A, in that you:
 - a. slapped her;
Determined and found proved
 - b. grabbed her by her hair;
Determined and found proved
 - c. pulled out her hair;
Determined and found proved
 - d. threw her down onto a bed;
Determined and found proved

- e. choked her.

Determined and found proved

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

Determination on Impairment - 05/12/2023

1. This determination will be handed down in private. However, as this case concerns Mr Grewal's misconduct, a redacted version will be published at the close of the hearing with confidential matters removed.
2. The Tribunal now must decide in accordance with Rule 17(2)(l) of the Rules whether, on the facts which it has found proved, Mr Grewal's fitness to practise is impaired by reason of misconduct.

The Evidence

3. The Tribunal has considered all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence on behalf of Mr Grewal as follows:

- a) An additional witness statement from Mr Grewal, dated 18 November 2022;
- b) XXX;
- c) XXX;
- d) XXX;
- e) XXX;
- f) XXX;
- g) A testimonial regarding Mr Grewal's recent work running educational courses for health professionals, dated 13 November 2023.

Submissions

On behalf of the GMC

4. On behalf of the GMC, Mr Fish submitted that Mr Grewal's actions, in supplying an illegal drug to Miss A and assaulting her, constitute a significant departure from Good

Medical Practice (2013) ('GMP') and from the standards of conduct to be expected of members of the medical profession.

5. Mr Fish submitted that Mr Grewal's actions breached his overall duty to act with integrity as well as paragraph 65 of GMP, '*You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*' Mr Fish submitted that, whilst Mr Grewal had not been convicted of any offence relating to these events, his actions could have led to criminal charges. He submitted that Mr Grewal's behaviour constituted a significant departure from what the public would expect. He, therefore, invited the Tribunal to conclude that the matters found proved against Mr Grewal amounted to serious misconduct.

6. Mr Fish also informed the Tribunal about Mr Grewal's previous fitness to practise history. In 2010 he had been found to be impaired by reason of misconduct and had been suspended for four months. Mr Fish stated that, although the facts of Mr Grewal's previous hearing were very different, this history could adversely impact the Tribunal's assessment of any future risk of repetition.

7. Mr Fish referred the Tribunal to *CHRE v NMC and Paula Grant* [2011] EWHC 927 Admin ('*Grant*'), citing Dame Janet Smith in her Fifth Shipman Report, in which she identified the following as an appropriate test for panels considering fitness to practise:

'Do the findings of fact ... show that his fitness to practise is impaired in the sense that he:

- a. 'Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or;*
- b. Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or;*
- c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or;*
- d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

8. Mr Fish submitted that Mr Grewal's actions engaged three of the *Grant* criteria. He submitted that, whilst Ms A was not a patient and there was no evidence of direct harm to patients, the fact that he had been found to have acted violently, could potentially place patient safety at risk.

9. Mr Fish submitted that Mr Grewal's actions, in assaulting Ms A, a woman in a vulnerable position alone in a hotel room, and supplying her with a Class A illegal drug, clearly brought the profession into disrepute and breached GMP. Mr Fish submitted that in all the circumstances, taking Mr Grewal's history into account, it would be hard for the Tribunal to conclude there was no risk of repetition.

10. Mr Fish acknowledged that Mr Grewal has demonstrated some insight and that there are other matters, in the material before it, for the Tribunal to consider. However, he submitted, when engaging with the overarching objective, the misconduct was so serious that a finding of current impairment was necessary to maintain public confidence in the medical profession and therefore protect the public.

11. Mr Fish, therefore, submitted that Mr Grewal's fitness to practise is currently impaired by reason of his misconduct.

On behalf of Mr Grewal

12. Mr Morris accepted, on behalf of Mr Grewal, that the matters found proved by the Tribunal represent a serious departure from standards and amount to serious misconduct. Mr Morris submitted that, whilst there is a spectrum of seriousness, Mr Grewal did not seek to contradict the seriousness of the actions found proved against him.

13. In considering seriousness, Mr Morris submitted that Mr Grewal's actions had not presented any risk to patient care. In supplying Ms A with a Class A illegal drug, Mr Grewal had not caused her specific harm. Mr Morris reminded the Tribunal of its findings as to the nature of Mr Grewal's assault on Ms A, namely that it was not a sustained attack and there was no evidence long-lasting or permanent physical or psychological harm. Ms A had described this as an isolated instance in their relationship. She had otherwise enjoyed his company.

14. XXX. He submitted that these were factors relevant to the Tribunal's consideration of insight and current impairment. Mr Morris accepted that it is difficult for Mr Grewal to demonstrate insight, given his previous and ongoing denial of the facts in this case. However, he submitted that Mr Grewal had shown insight in accepting the seriousness of the misconduct found proved. He also accepted the consequent requirement for a finding of impairment and in turn a sanction would be necessary to uphold the overarching objective.

15. XXX

16. Mr Morris submitted that the risk of repetition in this case was reduced by Mr Grewal's insight XXX the fact that there had been no suggestion of violence at any other time.

17. Mr Morris further submitted there were protective factors now in place to reduce the risk of repetition. These included XXX, his new career in training, which has given him a sense of purpose, and his family. XXX

The Relevant Legal Principles

18. 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.

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

20. The Tribunal must determine whether Mr Grewal's fitness to practise is impaired today, taking into account his conduct 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.

The Tribunal's Determination on Impairment

Misconduct

21. The Tribunal had regard to its previous findings. In summary, it had found that Mr Grewal had supplied Ms A with a Class A illegal drug, albeit a consensual social sharing of the drug. On a separate occasion, Mr Grewal had assaulted Ms A, in a short incident, which Ms A stated had left no lasting physical or psychological effects.

22. Whilst there was no police involvement related to either of these findings, the Tribunal accepted that they could have resulted in charges being brought against Mr Grewal.

23. The Tribunal bore in mind Mr Grewal had accepted that the matters found proved against him amounted to misconduct that was serious.

24. The Tribunal had regard to paragraphs 1 and 65 of GMP:

'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, are honest and trustworthy, and act with integrity and within the law.

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

25. The Tribunal found that Mr Grewal had failed to act with integrity and within the law, thereby risking public trust in the profession. The Tribunal determined that Mr Grewal's conduct had breached paragraphs 1 and 65 of GMP. It concluded that Mr Grewal's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct that was serious.

Impairment

26. The Tribunal, having found that the facts found proved amounted to serious misconduct, went on to consider whether, as a result, Mr Grewal's fitness to practise is currently impaired.

27. The Tribunal rejected the GMC's submission that Mr Grewal's actions put patients at unwarranted risk of harm. There was no history of violence. There was no evidence of unfitness for work. There were no questions about clinical performance. There was no evidence to suggest that Mr Grewal's actions had, at any time, impacted upon patient safety.

28. However, the Tribunal found that, having supplied Ms A with XXX and assaulted her, Mr Grewal's actions had brought the profession into disrepute and had breached fundamental tenets of the profession, namely the need for all doctors to act with integrity and within the law. The Tribunal was of the view that two out of the four criteria, as set out in *Grant*, were engaged in this case. His misconduct did adversely impact patient trust.

29. The Tribunal had regard to Mr Grewal’s personal and professional circumstances at the time of the events. XXX He was facing multiple challenges. XXX his workload had been unusually high due to staff shortages. XXX He had been racially abused. There had been a lack of support in the workplace. XXX. Although he let none of these matters impact his clinical work, he had made considerable errors of judgement outside of the workplace.

30. In October 2019, following his misconduct coming to light, Mr Grewal XXX

31. The Tribunal accepted that Mr Grewal had stopped taking XXX in October 2019. Mr Grewal had acknowledged that, whilst his XXX use may not have been the primary driver of his misconduct, it had further aggravated his XXX ability to cope. Stopping the use of XXX was the first evidence of Mr Grewal’s insight.

32. XXX. He stated that he understood, in hindsight, the adverse impact on him of using XXX. He explained that he had developed “*maladaptive coping strategies*” XXX. The Tribunal considered that Mr Grewal had successfully begun to demonstrate insight XXX and its impact on his judgement and behaviour.

33. XXX

34. Mr Grewal had also acknowledged that workplace stress was having a significant impact on him. The Tribunal noted that he no longer works a vascular surgeon and, moreover, he has no plans to return to that role. The Tribunal noted he was much happier at home and in his work environment.

35. XXX

36. Turning to Mr Grewal’s misconduct, the Tribunal noted that it is harder to demonstrate insight when the allegations have been contested. It was to Mr Grewal’s credit that he admitted the findings amounted to serious misconduct and led to him being currently impaired. The Tribunal accepted that this did show some insight. However, the Tribunal was not satisfied that Mr Grewal had fully demonstrated insight into or remediated his misconduct. He had not yet engaged with the seriousness of the Tribunal’s findings or remediated their impact on him or the wider medical profession.

37. The Tribunal had regard to Mr Grewal’s fitness to practise history. It concluded that it was not to his credit that he had been before his regulator in 2010 and had been suspended

for four months. However, the Tribunal accepted that the facts of his previous misconduct were very different. They were also more than 10 years ago. XXX. The Tribunal concluded that the past proceedings were not of significant relevance to its current determinations.

38. XXX It accepted that there was no evidence of any repetition of XXX use, violence or any other type of misconduct since these events four years ago. Nevertheless, the Tribunal could not safely rule out a risk of further misconduct XXX, if triggered by work, family stress or other challenges he might face.

39. Whatever the background to the allegations, these are findings of serious misconduct that could have led to criminal charges. As stated, they have an inevitable consequence on Dr Grewal's reputation and on that of the profession as a whole.

40. The Tribunal determined that a finding of impairment was required to uphold the overarching objective to maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

41. The Tribunal determined that Mr Grewal's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 06/12/2023

1. This determination will be handed down in private. However, as this case concerns Mr Grewal's misconduct a redacted version will be published at the close of the hearing with confidential matters removed.

2. The Tribunal had found that Mr Grewal supplied Ms A with a Class A illegal drug, albeit in the context of a social sharing of the drug. On a separate occasion, Mr Grewal behaved violently towards Ms A in what she described as a short incident leaving no lasting physical or psychological effects. The Tribunal found that Mr Grewal's actions were serious. His misconduct had brought the profession into disrepute and breached fundamental tenets of the profession, namely the need for all doctors to act with integrity and within the law.

3. Having determined that Mr Grewal's fitness to practise is impaired by reason of misconduct, the Tribunal now must decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

4. The Tribunal had regard to the evidence received during the earlier stages of the hearing, where relevant, in reaching a decision on sanction.
5. No further evidence was adduced at this stage of proceedings.

Submissions

6. Counsel agreed, given the serious nature of Mr Grewal's misconduct, it would not be appropriate for the Tribunal to take no action. Both also agreed that it would be neither appropriate nor proportionate to impose conditions on Mr Grewal's registration.
7. On behalf of the GMC, Mr Fish submitted that the only appropriate and proportionate sanction in this case was one of erasure. Mr Fish identified aggravating and mitigating factors for the Tribunal's consideration. Mr Fish referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (2020) ('the SG') that deal with erasure, paragraphs 107 to 111. He also referred the Tribunal to the sections of the SG that relate to *'Drug or alcohol use disorder linked to misconduct or criminal offences'* (paragraphs 160 to 162). Mr Fish submitted that misconduct involving the use of drugs, particularly illegal drugs, must be taken extremely seriously.
8. Mr Fish submitted that Mr Grewal's proven misconduct undermined the high standards within the profession to the extent that it was incompatible with his continued registration. Mr Fish submitted that erasure was the only sanction that would protect the public and maintain public confidence in the medical profession.
9. Mr Morris accepted, on behalf of Mr Grewal, that no sanction short of suspension would be appropriate given the facts of this case. He submitted that Mr Grewal's denial of the facts did not equate with lack of insight, and should not be taken as an aggravating factor. Mr Morris noted that the Tribunal had found that Mr Grewal had begun to show insight. He submitted that Mr Grewal regretted his relationship with Ms A, for the hurt he caused himself and the hurt it caused her. Mr Morris submitted that Mr Grewal had done as much as could reasonably be expected of him, given his denial of the allegations, to remediate. Mr Morris identified other mitigating factors for the Tribunal to consider such as his cessation of XXX use and his engagement with health care professionals.

10. Mr Morris referred the Tribunal to relevant paragraphs of the SG relating to both suspension and erasure. He submitted that the need to take serious action against Mr Grewal's registration did not equate to the only appropriate sanction being erasure. Mr Morris submitted that there were significant factors in this case which indicated that suspension was the appropriate sanction. He submitted that the public interest could be properly met with a period of suspension and that in the specific circumstances of this case, erasure would be both unnecessary and disproportionate.

The Tribunal's Determination on Sanction

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

12. 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 Mr Grewal's interests with the public interest.

Aggravating and Mitigating Factors

13. The Tribunal took into account its previous findings when considering sanction. Before deciding what action, if any, to take in respect of Mr Grewal's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

14. In considering the aggravating factors first, the Tribunal bore in mind that Mr Grewal's actions had breached fundamental tenets of the profession, namely the need for all doctors to act with integrity and within the law and brought the profession into disrepute.

15. Mr Grewal's misconduct involved the social supply of XXX to Ms A, a Class A illegal drug which he had procured from the dark web. Mr Grewal's misconduct also involved violent behaviour towards Ms A. Though he had not been charged or convicted of any offence, both aspects of Mr Grewal's misconduct were of a criminal nature.

16. The Tribunal was of the view that Mr Grewal's previous finding of impairment in 2010 and the fact he was suspended for four months had an adverse impact on the public interest.

This was his second appearance before his regulator. However, the Tribunal was careful not to place undue weight on the findings of the Tribunal from 2010 as the factual circumstances at that time were significantly different, occurred over 10 years ago XXX.

17. As regards insight, the Tribunal acknowledged that lack of insight can, sometimes, be characterised as an aggravating factor. Mr Grewal had exercised his right to deny the allegations. Whilst his denials directly impacted on his ability to demonstrate insight into his misconduct, they did not aggravate his misconduct.

18. The Tribunal was satisfied that Mr Grewal had demonstrated some insight and was continuing to develop his insight further as time passed. The Tribunal considered that in deciding to stop his use of XXX, change his lifestyle and his occupation, he had recognised those matters XXX, which in turn led to XXX use and poor decision-making. Further, the Tribunal accepted that Mr Grewal was deploying more effective coping strategies XXX thereby reduce the risk of repetition of any misconduct.

19. The Tribunal considered whether it had received any evidence of remediation. Given Mr Grewal's denial of the facts, it concluded that he was unable to provide any such evidence, and that he had yet to demonstrate an understanding of seriousness of his misconduct and its impact on public confidence in the medical profession.

20. The Tribunal noted that Mr Grewal had not offered any expressions of apology to Ms A. He had shown no remorse for his behaviour towards her. He had failed to recognise that Ms A's motivations for raising her concerns with the Trust included a concern for patient safety and for his well-being. XXX He had characterised her phone call to the Trust as malicious when it was the very thing that led him XXX.

21. Turning to the mitigating factors, the Tribunal was mindful that there was no evidence that Mr Grewal's actions had, at any time, put patients at risk of harm. He was otherwise a good and competent doctor.

22. The Tribunal had already found that, at the time of events, Mr Grewal was under immense personal and professional stress which impacted on his judgement and decision making.

23. Mr Grewal has taken steps to change his professional and personal circumstances to reduce the risk of future repetition. Mr Grewal had not repeated his misconduct since 2019. It has been four years since the events, without any further concerns being raised.

24. The Tribunal had regard to the testimonial from Ms F who wrote that Mr Grewal '*has a strong moral compass and sense of right and wrong*'. The Tribunal placed limited weight on this evidence given the seriousness of its findings. However, the Tribunal accepted that this testimonial showed that Mr Grewal is well regarded by professional colleagues and is more content in his current teaching role. He is away from the pressure of surgery XXX.

25. The Tribunal, having balanced the aggravating and mitigating factors identified in this case, considered them throughout its deliberations on what the appropriate and proportionate sanction to impose would be, if any. The Tribunal considered each sanction in ascending order of severity, starting with the least restrictive.

No action

26. The Tribunal first considered whether to conclude the case by taking no action. It accepted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that there are no exceptional circumstances in this case and that, given the seriousness of its findings, as acknowledged by both parties, it would neither be sufficient, proportionate, nor in the public interest to conclude this case by taking no action.

Conditions

27. The Tribunal next considered whether to impose conditions on Mr Grewal's registration. Neither party had suggested that the imposition of conditions was appropriate in this case. The Tribunal considered the relevant paragraphs of the SG, in particular paragraph 81, which provides examples of the types of cases where conditions might be most appropriate. None applied to this case. In any event, the Tribunal concluded that imposing conditions on Mr Grewal's registration would neither be proportionate nor sufficiently mark the seriousness with which it viewed his misconduct.

Suspension

28. The Tribunal accepted the submissions of the parties that this was a case where the appropriate and proportionate sanction was either suspension or erasure.

29. Accordingly, the Tribunal was required to determine whether Mr Grewal's misconduct was fundamentally incompatible with continued registration as referred to in paragraphs 92, 97a, 108 and 109a of the SG:

'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).

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.

108 Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.

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.'

30. Firstly, the Tribunal had regard to paragraphs 91 to 106 of the SG that relate to suspension.

31. The Tribunal accepted, as set out in paragraph 91 of the SG, that suspension does have a deterrent effect and could be used to send a signal to Mr Grewal, the profession, and the public about what is regarded as behaviour unbefitting a registered doctor. The Tribunal was of the view that the signal any sanction, in this case, would need to send is that, when a doctor is experiencing challenges XXX, they should seek support, rather than resorting to ‘maladaptive coping strategies’. It is wholly inappropriate for a doctor to use and supply an illegal drug, whether in a social context or not. It is also wholly inappropriate for a medical professional to engage in violent behaviour. These are acts that are criminal in nature. These acts fall considerably below the high standards expected of a doctor. Such misconduct cannot be tolerated and a serious sanction is necessary to protect the public.

32. In respect of paragraph 93, the Tribunal found that there had not yet been a genuine acknowledgement of fault by Mr Grewal in respect of his misconduct. He had taken responsibility for his XXX use and its impact but that had not extended to his treatment of Ms A.

33. The Tribunal considered that paragraphs 97e, 97f and 97g of the SG were engaged:

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

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.’

34. The Tribunal was satisfied that there was no evidence that remediation is unlikely to be successful. Although Mr Grewal denied the Allegation, he had begun to demonstrate insight into his misconduct. He had shown willingness to engage with and address XXX. He had acknowledged the impact of his XXX on his behaviour and had taken significant steps to

XXX. This reassured the Tribunal that Mr Grewal would be willing to, and could successfully engage with, the remediation process.

35. There was no evidence of repetition of any misconduct since Mr Grewal had ceased taking XXX in October 2019 XXX.

36. The Tribunal was satisfied that Mr Grewal is developing insight and does not pose a significant risk of repeating his misconduct. XXX. He has changed roles at work which has reduced his stress. He is content in his new role. His domestic circumstances provide him with support. However, without him developing further insight into his misconduct including remediation and an ongoing commitment to maintaining healthy coping mechanisms, a risk of repetition remains.

Erasure

37. The Tribunal considered the factors that indicated erasure might be the appropriate sanction before determining whether Mr Grewal's misconduct was fundamentally incompatible with continued registration.

38. The Tribunal had regard to paragraphs 107 to 111 of the SG. In particular, it had regard to paragraphs 108 and 109a (set out above) as well as 109b, 109d, 109g and 160:

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

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

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').

g Offences involving violence.

160 Doctors are expected to act with honesty and integrity and uphold the law – this includes their use of drugs and alcohol. Any serious or persistent failure in this regard

that puts patients at risk or undermines public confidence in doctors will put their registration at risk.'

39. The Tribunal noted that Mr Grewal's misconduct did not put patients at risk and he does not present an ongoing risk to patient safety. However, it is evident that his misconduct was serious and therefore action was necessary to maintain public confidence in the profession. The Tribunal had already found that Mr Grewal's misconduct breached paragraph 65 of the GMP because he had failed to act with integrity. It considered that Mr Grewal's misconduct did amount to a deliberate disregard for the principles of GMP and he had failed to act within the law. He had demonstrated a lack of judgement and breached the high standards of integrity expected of a doctor.

40. The Tribunal was of the view that the misconduct in this case, involving supply of an illegal drug and an assault, was so serious as to have the potential to justify Mr Grewal's erasure from the medical register.

41. However, the Tribunal bore in mind the background circumstances of Mr Grewal's misconduct. XXX. The Tribunal accepted that Mr Grewal's misconduct occurred at a particularly difficult time in his life, both personally and professionally. He was under extreme emotional and work-related stress. XXX. He had shown limited insight into how this was making him behave at the time. He stopped taking XXX in October 2019, XXX and changed roles. Since then, he has developed an understanding of how poorly he was coping at the time.

42. XXX.

43. The Tribunal was persuaded XXX that in the specific circumstances of this case, erasure was a disproportionate sanction. Mr Grewal's misconduct, on the facts of this case, was not, therefore, fundamentally incompatible with continued registration.

44. The Tribunal determined that the appropriate and proportionate sanction, in this very finely balanced case, was a lengthy suspension.

Length of suspension

45. Having considered the sanctions in ascending order of restrictiveness and having determined to suspend Mr Grewal's registration, the Tribunal went on to consider the length of the period of suspension.

46. The Tribunal determined to suspend his registration from the medical register for a period of 12 months. The Tribunal concluded that it had no alternative but to impose a suspension of the maximum length available given the seriousness of Mr Grewal's misconduct. This was necessary to send out the deterrent message to him and the medical profession that misconduct such as this will not be tolerated. Doctors must ensure they maintain public confidence in them. The Tribunal was satisfied that this sanction upheld the overarching objective to protect the public.

47. The Tribunal determined to direct a review of Mr Grewal'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 Mr Grewal to demonstrate how he has developed further insight and remediated his misconduct.

48. Mr Grewal will be able to provide any information that he considers will assist.

Determination on Immediate Order - 06/12/2023

1. Having determined to suspend Mr Grewal, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Fish submitted that it was in the public interest for an immediate order of suspension to be imposed. Mr Fish also invited the Tribunal to revoke the interim order of conditions currently imposed on Mr Grewal's registration.

3. On behalf of Mr Grewal, Mr Morris submitted that Mr Grewal is not a risk to public safety. He submitted that the substantive sanction upholds the overarching objective and that in such circumstances an immediate order was not required.

The Tribunal's Determination

4. The Tribunal had regard to paragraphs 172 to 178 of the SG. It took account of the guidance, the submissions of both parties and the specific basis upon which the Tribunal reached its determination on sanction. Specifically, paragraphs 172 and 173:

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

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

5. The Tribunal accepted that there was no risk to patients and therefore an immediate order was not necessary for that reason, nor was it in the interests of Mr Grewal. However, given the seriousness of Mr Grewal's misconduct as reflected in the sanction it has imposed, the Tribunal concluded that immediate action was required to protect public confidence in the medical profession and uphold the overarching objective.

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

7. The interim order is hereby revoked.

8. That concludes the case.

ANNEX A – 01/12/2023

Application under Rule 17(2)(g)

1. At the close of the GMC’s case, Mr Morris, Counsel on behalf of Mr Grewal, made an application under Rule 17(2)(g) of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’) that there was no case to answer in respect of paragraph 2.a of the Allegation:

2. On or around 18 March 2019 you behaved violently towards Ms A, in that you:

a. slapped her;

To be determined

Submissions

2. On behalf of Mr Grewal, Mr Morris reminded the Tribunal of Ms A’s evidence which included that she told the Tribunal that she could not recall whether it was a push or a slap to the face and that there were no lasting marks. He referred the Tribunal to the case of *R v Galbraith* [1981] 73 Cr App R 124 (‘*Galbraith*’) which was authority for the proposition that where there is no evidence, or evidence of a tenuous character, for example because of inherent weakness or vagueness, the paragraph of the Allegation should be dismissed. Mr Morris submitted that due to the lack of an initial complaint of slapping and the inconsistency in Ms A’s evidence between that given to the Trust, her written GMC statements and her oral testimony, the evidence was such that the paragraph which alleged slapping should be dismissed.

3. On behalf of the GMC, Mr Fish acknowledged that Ms A’s oral evidence due to her lack of recollection had ‘*muddied the waters*’. However, he submitted that the GMC’s evidence was capable of proving paragraph 2.a of the Allegation to the civil standard. Mr Fish accepted that Mr Morris had directed the Tribunal to almost all of the relevant evidence. In addition, he referred the Tribunal to a WhatsApp message sent by Mr Grewal to Ms A on 21 June 2019:

‘I was scared that we would keep fighting when I wanted to fuck you holding your hair down and slapping you’

4. Mr Fish submitted that the Tribunal could draw the reasonable inference that the messages exchanged by Mr Grewal and Ms A amounted to a discussion about the events that had happened in the hotel room on 18 March 2019 in which Ms A said she was slapped as part of the assault she alleged. Mr Fish submitted that Mr Grewal's own words referred to 'slapping you'. Mr Grewal appeared in the message to have admitted slapping Ms A. Mr Fish invited the Tribunal to conclude that there was a case to answer in respect of paragraph 2.a of the Allegation.

5. In response to Mr Fish's submissions, Mr Morris submitted that Mr Grewal's message to Ms A from 21 June 2019 indicated 'on its face' an intention of what he would do if sexual activity were to be engaged in. He submitted that the message did not indicate what Mr Grewal had done to Ms A that evening.

The Relevant Legal Principles

6. The Tribunal applied the test set out in *Galbraith*, in which Lord Lane LCJ said:

'How then should the judge approach a submission of 'no case'?

(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case.

(2) The difficulty arises where there is some evidence but it is of a tenuous character, for example, because of inherent weakness or vagueness or because it is inconsistent with other evidence.

(a) Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.

(b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness' reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury.'

7. It also had regard to Rule 17(2)(g) of the Rules:

‘the practitioner may make submissions as to whether sufficient evidence has been adduced to find some or all of the facts proved and whether the hearing should proceed no further as a result, and the Medical Practitioners Tribunal shall consider any such submissions and announce its decision as to whether they should be upheld’.

The Tribunal’s Decision

8. The Tribunal had regard to Ms A’s evidence regarding the allegation of a slap by Mr Grewal. This included her three telephone interviews with the Trust, her GMC witness statements and her oral evidence given to the Tribunal.

9. The Tribunal noted that Ms A said, at the time, she was in shock and the incident was short. It also noted Ms A accepted that her recollection of events now, in November 2023, was no longer clear about the nature of the slap.

10. The Tribunal read the text message sent on 21 June 2019 by Mr Grewal to Ms A, which referred to him *‘slapping her’* during a discussion about their fight on 18 March 2019. The Tribunal bore in mind that this message had been sent much closer to the time of events. The Tribunal took the view that there was more than one possible interpretation of Mr Grewal’s message. One reasonable interpretation of the message was that Mr Grewal was admitting that he had slapped Ms A at the hotel.

11. The Tribunal was satisfied that the evidence to support paragraph 2.a of the Allegation was such that a reasonable Tribunal, properly directed, may find it proved. The Tribunal concluded, therefore, that there was a case to answer.

12. Therefore, the Tribunal determined to refuse the application made on behalf of Mr Grewal, pursuant to Rule 17(2)(g) of the Rules.