# PUBLIC RECORD

**Dates**: 24/05/2021 - 28/05/2021

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| **Medical Practitioner's name:** | Dr Oluwarotimi OLAJOBI |
| **GMC reference number:** | 7517387 |
| **Primary medical qualification:** | MB BS 2010 University of Ibadan |

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

**Summary of outcome**

Erasure

Immediate order imposed

**Tribunal:**

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| Legally Qualified Chair | Mrs Jayne Wheat |
| Lay Tribunal Member: | Mrs Ann Bishop |
| Medical Tribunal Member: | Dr David Wrigley |

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| Tribunal Clerk: | Ms Fiona Johnston<br>24/05/2021 - 27/05/2021<br><br>Mr John Poole<br>28/05/2021 |

**Attendance and Representation:**

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| Medical Practitioner: | Present and represented |
| Medical Practitioner's Representative: | Ms Alecsandra Manning-Rees, Counsel, instructed by Richard Nelson LLP |
| GMC Representative: | Georgina Goring, 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 - 26/05/2021

## Background

1. Dr Olajobi qualified in 2010 with an MBBS from the University of Ibadan. Dr Olajobi moved to the UK in 2016 and as part of his GP training scheme, started his post as an ST3 at Shawbirch Medical Centre, Telford (‘*the Medical Centre’*) in August 2019.

2. On 27 December 2019, via the GMC online complaint system, Ms B, Acting Responsible Officer at Health Education England West Midlands (‘*HEEWM’*), alleged that Dr Olajobi had made inappropriate contact with a vulnerable female patient (Patient A). She had attended a consultation on the 8 October 2019 with Dr Olajobi and she was in a distressed state. Dr Olajobi was alleged to have hugged her and held her hand. It was alleged he gave her his personal mobile number. After the consultation, it was alleged he used WhatsApp, Facebook Messenger and attempted to call her on a number of occasions over the next few days.

3. Dr Olajobi was suspended from work by the lead employer, St Helens and Knowsley Teaching Hospitals NHS Trust (‘*the Trust’*). The Trust instigated an investigation under the Maintaining High Professional Standards (‘*MHPS’*) procedure.

4. Dr D, GP Partner at the Medical Centre and Training Programme Director, provided details of the complaint made by Patient A and also Dr Olajobi’s response to the matters.

## The Allegation and the Doctor’s Response

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

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

1. On 8 October 2019 you consulted with Patient A ('the consultation'). Admitted and found proved

2. At all material times:

   a. Patient A was vulnerable due to a mental health condition; Admitted and found proved

   b. you knew that Patient A was vulnerable. Admitted and found proved

3. During the consultation you behaved inappropriately towards/failed to maintain a professional boundary with Patient A in that you:

   a. made inappropriate physical contact with Patient A in that you:

      i. hugged Patient A; Admitted and found proved

      ii. held Patient A's hand; Admitted and found proved

   b. provided Patient A with your personal mobile telephone number. Admitted and found proved

4. Following the consultation, on one or more occasions, you behaved inappropriately towards/failed to maintain a professional boundary with Patient A in that you:

   a. contacted/attempted to contact Patient A via:

      i. text message (SMS); Admitted and found proved

      ii. WhatsApp; Admitted and found proved

      iii. Facebook Messenger; Admitted and found proved

      iv. Facetime; Admitted and found proved

   b. sent inappropriate messages to Patient A, as set out in Schedule 1:

      i. referring to Patient A as 'my darling', 'hun', 'darl', or words to that effect; Admitted and found proved

      ii. pressuring Patient A to come to your house; Admitted and found proved

      iii. informing Patient A of your age and asking Patient A if that was 'too old', or words to that effect; Admitted and found proved

      iv. offering to give Patient A a massage, or words to that effect; Admitted and found proved

v. wanting to know about Patient A's 'naughty side', or words to that effect; Admitted and found proved

vi. referring to Patient A's physical height; Admitted and found proved

vii. requesting pictures of Patient A; Admitted and found proved

c. connected with/became 'friends' with Patient A on your personal Facebook account. Admitted and found proved

5. Your contact with/attempt(s) to contact Patient A referred to in paragraph 4 was/were, in whole or in part, persistent. Admitted and found proved

6. Your conduct as described at paragraphs:

a. 3a; To be determined

b. 3b; To be determined

c. 4a; To be determined

d. 4b; To be determined

e. 4c; To be determined

f. 5, To be determined

was sexually motivated. 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

## The Admitted Facts

6. At the outset of these proceedings, through his counsel, Ms Manning-Rees, Dr Olajobi made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub- paragraphs of the Allegation as admitted and found proved.

## The Facts to be Determined

7. In light of Dr Olajobi's response to the Allegation made against him, the Tribunal is required to determine whether Dr Olajobi's conduct towards Patient A was sexually motivated.

## Factual Witness Evidence

8. Dr Olajobi provided his own witness statement, dated 21 April 2021 and also gave oral evidence at the hearing.

## Documentary Evidence

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

- Witness statement of Dr D, dated 9 March 2020;
- Witness statement of Dr E, dated 16 March 2020;
- Online referral from HEE, dated 27 December 2019;
- Internal email at the Lead Employer, dated 15 October 2019;
- Emails between Dr D and the Lead Employer, dated 15 October 2019;
- Dr E's 'statement of events', dated 15 October 2019;
- Dr D's 'statement of events', dated 17 October 2019;
- Messages/contact between Dr Olajobi and Patient A;
- Patient A's medical notes including emails to the Lead Employer for the local investigation;
- Email from Dr Olajobi to the Lead Employer and summary of discussion, dated 16 October 2019;
- Notes from an investigation meeting held with Patient A, dated 14 November 2019;
- Statement from Dr Olajobi undated;
- Witness statement of Dr Olajobi, dated 27 April 2021;
- CV of Dr Olajobi, undated;
- Emails and letters from Lead Employer relating to Training Placement;
- Original testimonial request email and letter, dated 22 January 2020;
- Original testimonials received January 2020 and approval September 2020;
- Testimonial request email and letter, dated 25 March 2021;
- Testimonial letter from Head of School GP Education West Midlands, dated 30 March 2021;
- Letter of support from Church Leader, dated 22 April 2021;
- Professional boundaries training certificates;
- CPD certificates and portfolio;
- Original reflections of Dr Olajobi, dated October 2019;
- Further reflections of Dr Olajobi, dated 22 April 2021;
- PDP of Dr Olajobi undated;
- Reference from Dr C, 26 April 2021;
- Reference from Dr F, dated 16 May 2021;
- Statement from Dr Olajobi's responsible officer, Professor G, dated 24 March 2021.

## The Tribunal's Approach

10. 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 Olajobi 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.

11. The Tribunal is required to give separate consideration to the evidence in relation to each individual paragraph of the Allegation. Therefore, it does not follow from the fact that the Tribunal finds one paragraph of the Allegation proved, or not proved, as the case may be, that the Tribunal will reach the same conclusion in relation to any of the other paragraphs of the Allegation.

12. In considering the Allegation, the Tribunal must be satisfied that each of the elements of the Allegation, or sub-allegation have been made out before finding the particular allegation proved. In reaching its decisions on the disputed elements of the Allegation, the Tribunal is nonetheless able to consider all the evidence in the round.

13. The Tribunal accepted the advice of the Legally Qualified Chair.

14. The Tribunal bore in mind the relevant guidance on sexual motivation as set out in *Sait v GMC [2018] EWHC 3160 (Admin)* and *Basson v GMC [2018] EWHC 505 (Admin),* in which the judgement of Mr Justice Mostyn stated:

> *"A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship…"*

15. In considering the allegation of sexual motivation, the Tribunal is required to decide whether Dr Olajobi's conduct was done in pursuit of sexual gratification or in pursuit of a future sexual relationship or both.

16. The Tribunal considered Dr Olajobi's good character as relevant to its considerations in two respects. Although it is not a defence to the allegations, Dr Olajobi's good character counts in his favour when assessing the credibility of his evidence and whether it should be accepted. Secondly, his good character is relevant as it may mean it is less likely that he has acted in the way alleged.

## The Tribunal's Analysis of the Evidence and Findings

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

### Paragraph 6 of Allegation

6. Your conduct as described at paragraphs:

a. 3a;

b. 3b;

c. 4a;

d. 4b;

e. 4c;

f. 5,

was sexually motivated.

### 6a in relation to 3a i and 3a ii

18. The Tribunal noted that Dr Olajobi has admitted that he behaved inappropriately towards Patient A, that he failed to maintain a professional boundary with her and that he made inappropriate physical contact with her in hugging her and holding her hand. This was the first meeting between Patient A and Dr Olajobi. They had not had any previous interactions. The Tribunal noted that she was extremely distraught on entering the room for the consultation.

19. The Tribunal did not find Dr Olajobi to be a credible witness in many respects of his evidence, which it will refer to within this determination, in particular with regard to his explanations of what happened after the consultation. However, it did accept that it was Dr Olajobi's immediate natural reaction, when confronted with Patient A in a distressed state, to comfort Patient A with a hug, and to hold her hand when faced with his patient being so upset. The Tribunal determined that it was unlikely, that upon immediately meeting her, he formed a sexual motive of either sexual gratification or to pursue a future sexual relationship with her. The Tribunal concluded that it could not be satisfied on the balance of probabilities

that these actions were sexually motivated. The Tribunal therefore finds these sub-paragraphs not proved.

6b in relation to 3b

20. The Tribunal considered Dr Olajobi's actions in offering Patient A his personal telephone number. He admitted that providing his number was inappropriate and in doing so he failed to maintain a professional boundary. In order to determine what motivation he had for doing so, the Tribunal had regard to what happened very shortly afterwards. Patient A sent Dr Olajobi a text message at 14.48 on the same day as the consultation, which had commenced at 12.57 Dr Olajobi responded with the reply:

*'You are welcome my darling. Are you on Whatapp on this number?'*

21. Dr Olajobi then immediately embarked on a long series of WhatsApp messages, the first timed at 14.50, two minutes after Patient A's initial text message. The WhatsApp messages continued throughout that afternoon and into the evening, during which he invited Patient A to his house. The messaging then continued over the next two days. The Tribunal rejected Dr Olajobi's explanation that he provided Patient A with his telephone number in order to try and help her and provide support. He had already taken appropriate clinical action in the consultation, by immediately referring her to the Community Mental Health Team. It considered that there was no clinical reason for providing his personal telephone number. Further, it considered that the conversation via WhatsApp, which quickly ensued, was persistent and involved discussion of intimacies such as massage and kisses.

22. The Tribunal concluded that Dr Olajobi had provided his mobile telephone number for the purposes of pursuing a future sexual relationship with Patient A. Therefore, the Tribunal find this sub- paragraph proved.

6c in relation to 4a (i)

23. Dr Olajobi has admitted contacting Patient A by text message and that such contact was inappropriate and failed to maintain professional boundaries. The Tribunal has already found that Dr Olajobi initiated the conversation on WhatsApp within 2 minutes of Patient A sending him a text message. His text message response contained a term of endearment: '*my darling*'. The Tribunal determined that he used this initial contact by way of text message as a gateway for further contact over social media messaging platforms in pursuit of a sexual relationship with Patient A. Therefore, the Tribunal find this sub- paragraph proved.

6c in relation to 4a (ii)

24. Dr Olajobi has admitted that his behaviour in sending WhatsApp messages and using WhatsApp's call function was inappropriate and that he failed to maintain professional boundaries in so doing. The Tribunal had regard to the extremely high number of messages, audio and video calls and the persistency of Dr Olajobi in contacting Patient A on the same

day, and over the next two days after the consultation. The Tribunal did not accept Dr Olajobi's evidence as to why he made contact in this way. It did not accept as credible that he wanted to support Patient A due to her vulnerable mental health, or that he had simply slipped into '*social contact*' with her. The Tribunal rejected Dr Olajobi's repeated response in his evidence that his conduct was '*a momentary lapse of judgment*', as the Tribunal had clear evidence of both the amount and content of the messages over WhatsApp. The Tribunal concluded that this contact was in pursuit of a future sexual relationship with Patient A. Therefore, the Tribunal find this sub- paragraph proved.

6c in relation to 4a (iii)

25. With regards to the Facebook Messenger messages, which occurred after a large amount of contact over WhatsApp, the Tribunal noted that by this time Patient A was not responding. There was no evidence that these messages contained words or suggested conduct that could be categorised as having a sexual motivation. Dr Olajobi's contact over Facebook Messenger was more limited and concerned with resuming contact with Patient A. The Tribunal were not satisfied that there was enough evidence before it to find a sexual motivation for these particular messages, even when viewed in the context of the WhatsApp messages. There were other credible explanations for them, for example, simple concern on the part of Dr Olajobi for Patient A, who in her most recent messages had intimated a deterioration in her mental state. Accordingly, the Tribunal found this sub-paragraph not proved.

6c in relation to 4a (iv)

26. This sub paragraph related to the medium of Facetime. The Tribunal had regard to all the evidence of screenshots showing Dr Olajobi contacting Patient A or trying to contact her via different social media messaging platforms. There were no references to Facetime in the evidence the Tribunal had before it. The Tribunal could not be satisfied, on the balance of probabilities that any contact or attempted contact over Facetime was sexually motivated. Based on the evidence before it, the Tribunal therefore finds this sub-paragraph not proved.

6d in relation to 4b (i)

27. Dr Olajobi admitted that he sent inappropriate messages to Patient A in referring to her as '*my darling*', '*hun*', '*darl*'. The Tribunal found that these constituted terms of endearment which were used to address Patient A affectionately. The words '*my darling*' are used by Dr Olajobi in his first text message and the word '*hun*' is used numerous times throughout the persistent WhatsApp messaging. The Tribunal considered this evidence in the context of the content of other messages and in light of the findings of sexual motivation it has already made. It therefore determined that the use of these words was in pursuit of a future sexual relationship. Therefore, the Tribunal finds this sub- paragraph proved.

6d in relation to 4b (ii)

28. This sub paragraph is in relation to Dr Olajobi's admitted inappropriate behaviour in '*pressuring' (sic)* Patient A to come to his house. The Tribunal examined the WhatsApp messages which concerned an invitation to Dr Olajobi's house. The invitation was made within half an hour of his first message to Patient A. The messaging continued throughout the first and second day he is in contact with Patient A. The Tribunal noted that even when Patient A states she has taken medication and is in bed, Dr Olajobi continued to ask her if she wants to come to his house. Throughout the messages he makes suggestions as to what they might do if she does visit his house. Examples from the messages are set out below;

> Patent A -*' I might take you up on that offer when I'm feeling a bit better with my throat and chest…. what would you want to do?.'*
> Dr Olajobi *' Well may be watch a movie and chat… just to get to know u more'*
> …..
> Patient A - *' Any other plans apart from the library tonight? x'*
> Dr Olajobi -*'Just home and problems a glass of wine. You are welcome to come along if its ok with you'*
> Patient A – *I would if I wasn't feeling so poorly: (ache all over and I cant stop coughing x'*
> Dr Olajobi - *Awww bless u. That's ok. But you still can if you want to. U can rest up at mine. But its ok if you don't feel up to it… I would have just studied at home if you was there… But its fine '*
> ……
> Dr Olajobi *' I need to know ur naughty side as well…. Really wish u were felling ok to be around. Would have really been nice.'*

29. The Tribunal did not find Dr Olajobi's explanation for his repeated contact with Patient A to be credible and has already set out its reasoning for that. The Tribunal found that Dr Olajobi repeatedly suggested that Patient A might come to his house, with the timings of the messages showing that he repeated his invitation at approximately hourly intervals later on the same day of the consultation. He continued to do so on the next day, including at 8.06am '*should I come pick you up?*'. It becomes clear from Patient A's replies that she is very upset. In the absence of any other credible explanation, and in light of its previous findings of sexual motivation, the Tribunal was satisfied that he did so in pursuit of a sexual relationship. The Tribunal therefore finds this sub-paragraph proved.

6d in relation to 4b (iii)

30. In the messages before the Tribunal, Patient A asked Dr Olajobi how old he was. In his reply, Dr Olajobi responded with his age and messaged:

> '*Too old??*'

31. Having rejected Dr Olajobi's overall explanation that his conduct towards Patient A, was a *'momentary lapse of judgement'* and that '*he was continually worried about Patient A'*, the Tribunal considered Dr Olajobi's specific response to this sub paragraph in cross examination. He stated that '*he was being sarcastic'* when he responded with '*Too old??'.* The Tribunal did not accept this explanation as it made no sense and concluded that Dr Olajobi could not give a clear explanation as to why he asked her that. The Tribunal considered the disparity in the age of Patient A, who was then 19 years old, and Dr Olajobi, who told the Tribunal he was then 37 years old. It determined that it was common sense to infer that the reason he had responded in this way was due to the large age gap between himself and Patient A. The Tribunal noted that only four minutes after the messages relating to their ages, Dr Olajobi sent a message suggesting that kisses may ease her sore throat. In cross examination Dr Olajobi agreed that kissing the neck was sexual. The Tribunal determined that '*kisses'* in this context had a sexual connotation. Taken in the context of the other messages and the findings already made of sexual motivation, the Tribunal concluded that asking Patient A; '*Too old??*' was for the purpose of pursuing of a sexual relationship with her. Based on all the evidence before it, the Tribunal therefore finds this sub-paragraph proved.

<u>6d in relation to 4b (iv)</u>

32. Patient A messaged to say *'….Id lovee a massage rn everywhere aches'* subsequently Dr Olajobi messages back '*I could have offered*'. Dr Olajobi has admitted that it was inappropriate to offer Patient A a massage. In cross examination he eventually agreed that in fact he had offered to give her a massage. He conceded that he could see how this could be perceived as having a sexual motive whilst maintaining that he did not intend it in a sexual way. The Tribunal did not find this credible. The Tribunal considered that a massage is an intimate act. When viewed in light of the other messages sent, and in the context of the Tribunal's other findings of sexual motivation, the Tribunal concluded that the reason for Dr Olajobi offering a massage was in pursuit of either sexual gratification or a future sexual relationship. Therefore, the Tribunal therefore finds this sub-paragraph proved.

<u>6d in relation to 4b (v)</u>

33. The Tribunal considered Dr Olajobi's explanation for the messages he sent wanting to know about Patient A's '*naughty side'*. He told the Tribunal that he was trying to ascertain whether she drank alcohol or took drugs, which he described as

> '*trying to get important information'*

34. He conceded in cross examination that he would not ask patients in a clinical setting about their '*naughty side'* and would ask them instead about substance misuse. He could give no credible explanation for why, if he was genuinely concerned about drugs or alcohol misuse, he did not ask Patient A directly, other than that their conversation had turned to social contact. The Tribunal noted that Dr Olajobi persistently asked Patient A about her naughty side:

Dr Olajobi - ' *U still haven't told me ur naughty side?'*
Patient A – '*I want to get to know you first before I decide if I want to show it.*
Dr Olajobi – '*That's absolutely fine…be my guest…would have been so perfect tonight though. You being around…Late early and lazy morning.. *late night and early morning…late morning I mean'*

35. The Tribunal do not accept Dr Olajobi's explanation that he was trying to explore if Patient A used '*drugs or alcohol'*. In the exchange set out above, he expresses that he is willing to wait for Patient A to '*show*' her '*naughty side'* which is inconsistent with it being a genuine concern regarding drugs or alcohol misuse. Further the Tribunal found that Dr Olajobi was expressing a wish that Patient A would stay over at his house given he messaged about night and morning. When viewed in the context of all the messages, in particular with regard to the suggestion that kisses may sooth her sore throat and that he offered Patient A a massage, the Tribunal were satisfied that enquiries into Patient A's '*naughty side'* were in pursuit of sexual gratification or in pursuit of a future sexual relationship.

<u>6d in relation to 4b (vi)</u>

36. The Tribunal had regard to the messages between Dr Olajobi and Patient A regarding her height:

Patient A - ' *How tall are you? Was soo nice hugging someone taller than me'.*
Dr Olajobi – '*lol… I am like 6'2 5 …You?'*
Patient A- '*[XXX]I think'*
Dr Olajobi – '*That so cool'*
Patient A – '*Very tall for a woman aha'*
Dr Olajobi – '*Nope…Hardly see a tall lady…so it's unique…*
*Any update? Still coming?'*

37. Patient A initially asked Dr Olajobi about his height. The Tribunal noted that Dr Olajobi responds by complimenting Patient A on a physical attribute and concluded it was reasonable to infer that this was a clear attempt to flatter her, and to intimate that he found her height attractive. The Tribunal were accordingly satisfied that, when viewed in the context of the conversation that unfolded in the many messages exchanged, Dr Olajobi was acting in pursuit of either sexual gratification or in pursuit of a future sexual relationship. Therefore, the Tribunal finds this sub-paragraph proved.

<u>6d in relation to 4b (vii)</u>

38. The Tribunal considered the one-word message;

*'Pictures?'*

39. It considered the messages directly before and after this particular message. It concluded that the message did not fit into the pattern of persistency already found, nor did it have the hallmarks of persuasion seen in Dr Olajobi's earlier messages. There was no context to the message. Dr Olajobi corrected himself straight away when Patient A queried his request. There was no previous mention of pictures. The Tribunal therefore accepted Dr Olajobi's explanation that that particular message was meant for someone else. In the circumstances it did not find that the request for pictures was sexually motivated. Therefore, the Tribunal find this sub -paragraph not proved.

6e in relation to 4c

40. Dr Olajobi has admitted that it was inappropriate to become a friend on Facebook with Patient A. The Tribunal has not accepted Dr Olajobi's overall explanation for his behaviour that it was a momentary lapse of judgement. The Tribunal considered Facebook to be another form of contacting Patient A and accessing her personal information, which becomes available once connected via 'becoming friends' on Facebook. In the context of the other persistent messages and its previous findings in relation to sexual motivation, the Tribunal could not find a reasonable explanation for Dr Olajobi becoming friends with Patient A on Facebook. It concluded that his conduct in this regard was in pursuit of either sexual gratification or a future sexual relationship. Therefore, the Tribunal find this sub -paragraph proved.

6f in relation to 5

41. The Tribunal gave consideration to all of the evidence of the methods of contact and the messages before it. The Tribunal noted its overall findings in relation to paragraph 6 where it relates to paragraph 4, (excluding paragraphs 4a(iii), 4a (iv) and 4b (vii) where sexual motivation was not found proved). Part of the reasoning for the Tribunal's previous findings of sexual motivation was the persistency, frequency and persuasive nature of the contact made by Dr Olajobi. It follows, therefore, that the Tribunal concludes that the persistency of the contact was sexually motivated. The Tribunal find this sub -paragraph proved.

The Tribunal's Overall Determination on the Facts

42. The Tribunal has determined the facts as follows:

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

1. On 8 October 2019 you consulted with Patient A ('the consultation'). Admitted and found proved

2. At all material times:

   a. Patient A was vulnerable due to a mental health condition; Admitted and found proved

b. you knew that Patient A was vulnerable. **Admitted and found proved**

3. During the consultation you behaved inappropriately towards/failed to maintain a professional boundary with Patient A in that you:

   a. made inappropriate physical contact with Patient A in that you:

      i. hugged Patient A; **Admitted and found proved**

      ii. held Patient A's hand; **Admitted and found proved**

   b. provided Patient A with your personal mobile telephone number. **Admitted and found proved**

4. Following the consultation, on one or more occasions, you behaved inappropriately towards/failed to maintain a professional boundary with Patient A in that you:

   a. contacted/attempted to contact Patient A via:

      i. text message (SMS); **Admitted and found proved**

      ii. WhatsApp; **Admitted and found proved**

      iii. Facebook Messenger; **Admitted and found proved**

      iv. Facetime; **Admitted and found proved**

   b. sent inappropriate messages to Patient A, as set out in Schedule 1:

      i. referring to Patient A as 'my darling', 'hun', 'darl', or words to that effect; **Admitted and found proved**

      ii. pressuring Patient A to come to your house; **Admitted and found proved**

      iii. informing Patient A of your age and asking Patient A if that was 'too old', or words to that effect; **Admitted and found proved**

      iv. offering to give Patient A a massage, or words to that effect; **Admitted and found proved**

      v. wanting to know about Patient A's 'naughty side', or words to that effect; **Admitted and found proved**

      vi. referring to Patient A's physical height; **Admitted and found proved**

      vii. requesting pictures of Patient A; **Admitted and found proved**

   c. connected with/became 'friends' with Patient A on your personal Facebook account. **Admitted and found proved**

5. Your contact with/attempt(s) to contact Patient A referred to in paragraph 4 was/were, in whole or in part, persistent. **Admitted and found proved**

6. Your conduct as described at paragraphs:

   a. 3a;

   b. 3b;

   c. 4a;

   d. 4b;

   e. 4c;

   f. 5,

   was sexually motivated.

| Found not proved | Found proved |
|---|---|
| 3a (i) | 3b |
| 3a (ii) | 4a (i) |
| 4a (iii) | 4a (ii) |
| 4a (iv) | 4b (i) |
| 4b (vii) | 4b(ii) |
| | 4b(iii) |
| | 4b(iv) |
| | 4b(v) |
| | 4b (vi) |
| | 4c |
| | 5 |

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 - 27/05/2021

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

## The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary.

3. The Tribunal also received documents including, but not limited to, documents demonstrating Dr Olajobi's remediation and insight, including reflective statements, certificates of courses completed and testimonials.

## The Admitted Facts

4. The Tribunal raised an issue with regard to the admission made by Dr Olajobi to sub paragraph 4a (iv), in relation to contact or attempted contact via Facetime. The Tribunal invited Ms Manning -Rees, Counsel on behalf of Dr Olajobi, to consider applying to withdraw the admission made on the 24 May 2021 to this part of the Allegation. It did so on the basis that the Tribunal could find no evidence or documentation of contact made through Facetime. Ms Manning -Rees subsequently applied to withdraw Dr Olajobi's admission to 4a (iv), and the Tribunal granted her request. After further brief submissions on the point from Ms Goring, GMC Counsel and Ms Manning -Rees, the Tribunal then found this matter '*Not proved*'.

## Submissions in relation to Misconduct and Impairment

5. Ms Goring submitted that Dr Olajobi's actions constituted misconduct and that his fitness to practise is impaired. She submitted that Dr Olajobi's actions were a serious departure from *Good Medical Practice (2013 Edition) ('GMP'),* in particular paragraphs 47 and 53. She also drew the Tribunal's attention to the relevant paragraphs of the *GMC guidance, 'Maintaining a professional boundary between you and your patient,* in particular paragraphs 3 and 11.

> ***3*** *Trust is the foundation of the doctor-patient partnership. Patients should be able to trust that their doctor will behave professionally towards them during consultations and not see them as a potential sexual partner*

> ***11*** *Some patients may be more vulnerable than others[3] and the more vulnerable someone is, the more likely it is that having a relationship with them would be an abuse of power and your position as a doctor*

6. Ms Goring submitted that Patient A was young and vulnerable, Dr Olajobi had accepted he knew about her vulnerability and was aware of her mental health issues, as her consultation notes had been flagged with the term '*PTSD*'. Ms Goring stated that the Tribunal have found a significant proportion of his behaviour sexually motivated. She further submitted that Dr Olajobi's behaviour was persistent and continued for a period of 5 days; it included 17 attempted calls, 2 WhatsApp conversations, 11 Facebook Messenger messages and a further 20 WhatsApp messages. She submitted that Dr Olajobi abused his position of trust to gain contact with a vulnerable patient. Patient A was clearly vulnerable and suffered from mental health issues and it is clear Dr Olajobi's contact with her exacerbated her condition or at least had a detrimental impact on her.

7. She submitted that Dr Olajobi has admitted nearly all the allegations, engaged in the proceedings and attended courses. However, she submitted that Dr Olajobi had shown no insight into the sexual nature of the Allegation. She told the Tribunal that it was critical for it to consider that Dr Olajobi has been unable to accept that his behaviour was sexually motivated. She suggested that his evidence to the Tribunal was an attempt to minimise his behaviour. Ms Goring submitted that whilst Dr Olajobi had attended courses covering professional boundaries, it was difficult to say that they covered the sexual motivation found proved. She submitted that he had shown clear remorse towards Patient A but that this was lacking in the most serious aspect of the case.

8. She submitted that on the basis of the Tribunal's findings, a finding of impairment was necessary to uphold professional standards and maintain public confidence in the profession.

9. On behalf of Dr Olajobi, Ms Manning-Rees acknowledged that Dr Olajobi's behaviour reached the threshold for misconduct. She did not dispute that the 'public element' of impairment was met.

10. In relation to the 'personal' element of impairment, Ms Manning-Rees drew the Tribunal's attention to the admissions that Dr Olajobi made at the outset of the case and his early engagement. She submitted that Dr Olajobi knows how serious and appalling his actions were. She referred the Tribunal to evidence within the references supplied for this hearing, in

which it is clear that Dr Olajobi has been open with his colleagues, who all knew of the Allegation and the admissions Dr Olajobi made.

11. She submitted that Dr Olajobi has put the experience of Patient A at the centre of his learning and while no apology can fix some types of conduct, it does not mean that he can't work as a doctor again. She submitted that his reflections do encompass a reflection on sexual motivation as Dr Olajobi was plainly aware of how the messages could be viewed.

12. She said that Dr Olajobi has worked hard over the last 18 months to demonstrate he can be a trusted member of the profession again. Dr Olajobi has remained in the UK to face the allegations head on. He accepts that a finding on one or both grounds is inevitable in this case.

## The Relevant Legal Principles

13. 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.

14. The Tribunal was mindful of the two-stage process to be adopted: first, to consider whether the facts as found proved amounted to misconduct that was serious and secondly, to assess whether the doctor's fitness to practise is currently impaired by reason of that misconduct.

15. The Tribunal must determine whether Dr Olajobi's fitness to practise is impaired today, taking into account all relevant factors such as insight, whether the matters are remediable, have been remediated and if there is any likelihood of repetition.

16. With regard to impairment, the Tribunal had regard to the case of CHRE v NMC and Grant [2011] EWHC 927 where Dame Janet Smith's observations in the Fifth Report of the Shipman Inquiry were reiterated:

> *'an appropriate test for panels considering impairment of a doctor's fitness to practise, [ …].*
>
> *Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

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

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

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

*...*

## The Tribunal's Determination on Impairment

Misconduct

17. The Tribunal had regard to the overarching objective as set out in s1 (1A) Medical Act 1983 (the 1983 Act) as amended:

- *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 the profession.*

18. The Tribunal considered that its findings at the facts stage engaged paragraphs 3 and 11 of the guidance document issued by the GMC*: 'Maintaining a professional boundary between you and your patient'* as set out above.

19. Similarly the Tribunal considered the following paragraphs of Good Medical Practice to be most relevant:

*'47. You must treat patients as individuals and respect their dignity and privacy'*

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

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

The Tribunal determined that Dr Olajobi's conduct fell far short of and breached these standards.

20. Dr Olajobi admitted from the outset of the hearing that he had inappropriately sent messages to Patient A whom he knew to be a vulnerable patient and who was significantly younger than Dr Olajobi. Dr Olajobi had put his own interests ahead of those of Patient A. He accepted that he had failed to maintain professional boundaries. In so acting, he has breached the position of trust placed in him as a doctor. His contact with Patient A included messages, audio and video calls which were persistent and started shortly after the initial consultation. The Tribunal found that his conduct in providing Patient A with his personal telephone number and persistently sending her inappropriate messages was sexually motivated in a number of respects, including pressurising Patient A to attend his home, offering to give her a massage and wanting to know about her '*naughty side'*. It determined that Dr Olajobi's behaviour would be deemed to be deplorable by fellow practitioners.

21. The Tribunal concluded that Dr Olajobi'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

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

23. The Tribunal had regard to the questions posed by Dame Janet Smith in the 5th Shipman report and determined that, in the past, Dr Olajobi, by virtue of his misconduct, had put a patient at unwarranted risk of harm, had brought the profession into disrepute and had breached a fundamental tenet of the medical profession, namely a breach of the position of trust held by a doctor.

24. In determining whether Dr Olajobi's fitness to practise is currently impaired, the Tribunal considered whether there was evidence of insight or remediation on the part of Dr Olajobi and whether there was any likelihood of him repeating his misconduct in the future.

25. The Tribunal took into account Dr Olajobi's early admissions to behaving inappropriately towards Patient A and failing to maintain professional boundaries. The Tribunal noted his co-operation with his Regulator. The Tribunal also took into account the reflective documents provided by Dr Olajobi in order to demonstrate his insight. He described how the events had impacted upon him, and what he had done to understand and remediate his behaviour, how it had affected his fellow professionals and public confidence in the profession. He understood the impact on Patient A, which was considerable. In his evidence to the Tribunal he expressed remorse which the Tribunal accepted as genuine.

26. The Tribunal had regard to Dr Olajobi's attempts at remediation and considered his progress to be genuine and focused. The Tribunal acknowledged that Dr Olajobi had attended a *'Maintaining Professional Boundaries course'*, dated 21-23 January 2020 and several online courses such as completing the '*Chaperoning module'* and '*Building Professional Relationships module'*.

27. The Tribunal also received a number of testimonials, all of which are positive. The Tribunal had particular regard to a reference from his most recent educational supervisor Dr F in which she stated;

> *'Having had the chance to review Dr Oluwarotimi's electronic portfolio it is clear that he has reflected deeply on the allegations made against him, and that this matter has had a significant impact on his life over an extended period of time. I understand that he has taken a number of steps since the incident in question to further his understanding of how to maintain professional boundaries, and he now seems keen to implement these measures within his own practice. I am hopeful that with the right support, Dr Oluwarotimi will be able to develop the necessary skills to succeed in the MRCGP and to practice successfully thereafter'.*

28. The Tribunal therefore determined that in relation to these aspects of his misconduct which he had admitted Dr Olajobi has shown considerable insight.

29. The Tribunal also considered that Dr Olajobi had some limited insight into the sexually motivated behaviour found proved against him. Through Ms Manning- Rees, he stated that he understood and respected the findings of the Tribunal. He was able to recognise, when giving evidence, that the messages he sent and the phrases he used could be construed as having a sexual connotation, although Dr Olajobi denied any sexual motivation. He was able to recognise how such behaviour might be perceived by the profession and the public.

30. Whilst the Tribunal noted that, since 2019, there had been no repetition of behaviour of a similar nature, nonetheless the Tribunal could not rule out a risk of repetition albeit it considered the risk to be low.

31. However, the Tribunal considered Dr Olajobi's behaviour towards Patient A, a young and vulnerable patient, to be very serious and unacceptable. Such conduct amounted to an abuse of a position of power and trust and falls far below the standard to be expected from a medical practitioner. The Tribunal is of the view that Dr Olajobi's misconduct engages all three limbs of the overarching objective in that he has jeopardised the health and wellbeing of Patient A, undermined public confidence in the medical profession and failed to adhere to the standards of his profession.

32. Notwithstanding the remediation and insight shown by Dr Olajobi, the Tribunal determined that the need to uphold proper professional standards and confidence in the profession would be undermined if a finding of impairment were not made.

33. The Tribunal therefore determined that Dr Olajobi's fitness to practise is impaired by reason of misconduct.

## Determination on Sanction - 28/05/2021

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

## The Evidence

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

## Submissions

3. On behalf of the GMC, Ms Goring submitted that the appropriate sanction in Dr Olajobi's case was one of erasure. She reminded the Tribunal that it had found serious departures from *Good Medical Practice (2013 Edition) ('GMP').* She submitted that this case is particularly serious as it involves a breach of trust with a vulnerable patient who was clearly

harmed by Dr Olajobi 's misconduct. This was a case where all three limbs of the overarching objective were engaged.

4. Ms Goring referred the Tribunal to the Sanctions Guidance (November 2020) ('SG'). She submitted that Dr Olajobi's misconduct involved a number of aggravating factors including persistently contacting Patient A over a number of days, clear abuse of power and trust, lack of full insight into the sexual motivation of his behaviour and the impact of his actions on Patient A, who was described as distressed, tearful and having to be reassured that she was safe.

5. However, Ms Goring did acknowledge that Dr Olajobi had engaged in the proceedings, made some admissions and had provided positive testimonials. She also submitted that Dr Olajobi had been subject to an Interim Order of Conditions since January 2020 which he had fully complied with.

6. Ms Goring told the Tribunal that, in the absence of any exceptional circumstances in the case, it would be entirely inappropriate for the Tribunal to take no action. She submitted that, on the evidence before it and the issues raised in the case, conditions would not be an appropriate response as they would fail to reflect the seriousness of Dr Olajobi's conduct when taking into account the public interest, and that no conditions were workable for this type of misconduct. She stated that suspension was not an appropriate sanction because of the multiple aggravating features and that the behaviour was sexually motivated. She directed the Tribunal to various paragraphs of the SG, including paragraph 150, which states that sexual misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies. More serious action such as erasure is likely to be appropriate in such cases.

7. On behalf of Dr Olajobi, Ms Manning-Rees submitted that Dr Olajobi was aware that his misconduct would attract a sanction at the more serious end. She stated that she did not seek to assert that any particular sanction was appropriate in this case, but that the sanction does not need to be one of erasure. She submitted that this process has been difficult for Dr Olajobi but it has also served as a continued learning experience. He has not rested on his laurels and has been subject to an Interim Order of Conditions. He has worked in a voluntary administrative role within the NHS to align himself with his professional obligations and to provide support at a difficult time during the pandemic. She submitted that Dr Olajobi has not been able to work and his training has been delayed and he is now due to qualify in January 2022 if he is permitted to continue with his training. The Tribunal's decision today

could have an effect on Dr Olajobi's training and his ability to remain in the country as his employer is his tier two sponsor and he is two months away from his 'indefinite leave to remain' status. She further submitted that the Tribunal's decision could have an impact on both his and his family's financial status.

8. She asked the Tribunal to consider that the GMC had been content with an Interim Order of Conditions and that nothing had changed since it had been imposed. She submitted that his employer at the time of his misconduct had allowed his employment to continue after having given him a final written warning.

9. She submitted that Dr Olajobi is now working again within a surgery and with an employer who will support him back into practice, having fully disclosed his circumstances. She reminded the Tribunal of the positive testimonial provided by his educational supervisor. She reminded the Tribunal of Dr Olajobi's early engagement in this process and his commitment to his profession. She submitted that real insight is present and ongoing and that Dr Olajobi recognises the impact of his actions on Patient A. She drew the Tribunal's attention to Paragraph 93 of the SG and reminded the Tribunal of its determination that the risk of repetition was low. She concluded that the Tribunal could step back from a sanction of erasure.

## The Relevant Legal Principles

10. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own independent judgment. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest, although sanctions may have a punitive effect.

11. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Olajobi's interests with the public interest. The public interest includes, amongst other things, the protection of patients, the promotion of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour.

## The Tribunal's Determination on Sanction

12. The Tribunal has already given a detailed determination on facts and impairment and it has taken those matters into account during its deliberations on sanction.

13. The Tribunal considered the aggravating and mitigating factors in this case.

Aggravating Factors

14. The Tribunal considered the following to be aggravating factors:

- Patient A was extremely vulnerable in a number of ways:
  i) She had significant mental health issues including PTSD;
  ii) She was extremely distressed for the most part of the consultation with Dr Olajobi. Dr Olajobi knew of these vulnerabilities and was concerned enough to refer her to the Community Mental Health Team in order to receive help quickly;
  iii) Patient A had been the victim of child sexual exploitation and had a very difficult homelife. The GMC accept that Dr Olajobi was not aware of her full history. Nonetheless, her background added to her extreme vulnerability;
  iv) Whilst age does not of itself, necessarily make a person vulnerable, Patient A was a teenager of 19 years of age at the time of the consultation. The disparity of age between herself and Dr Olajobi, who was then 37 years of age, added to her vulnerability.
- Dr Olajobi abused his position of power and trust in contacting Patient A, in acting inappropriately and failing to maintain professional boundaries, the motivation for which was found to be sexual;
- Dr Olajobi's conduct had a significant detrimental impact upon Patient A, who was described in subsequent meetings as distressed, tearful and needing to be reassured she was safe;
- Dr Olajobi's conduct was persistent and pressurising, continued for days and had a sexual motivation;
- Dr Olajobi has only limited insight into the sexually motivated elements of his misconduct;
- Dr Olajobi has breached paragraphs 47, 53 and 65 of the GMP and the specific GMC guidance; *'Maintaining a Professional Boundary between you and your patient'*, at paragraphs 3 and 11.

Mitigating Factors

15. The Tribunal considered the following to be mitigating factors:

- The relevant events in this case involved one patient and one episode of behaviour, albeit over a number of days;
- Dr Olajobi is of previous good character and there have been no subsequent complaints made against him;

- Dr Olajobi made admissions at the outset, acknowledged some of his failings and he demonstrated considerable insight into the admitted failings during the course of these proceedings;
- Dr Olajobi has engaged with his regulator and the proceedings;
- Dr Olajobi has complied with the Interim Order of Conditions;
- Dr Olajobi has to some extent remediated his actions by undertaking a number of courses relating to the maintenance of professional boundaries;
- Dr Olajobi provided positive testimonials.

16. The Tribunal carefully balanced the aggravating and mitigating factors it had identified. The Tribunal was particularly concerned by the vulnerability of Patient A, the abuse of power and trust and the persistent nature of the conduct which it had found was sexually motivated. It considered that these factors significantly outweighed the mitigating factors it has identified.

## No Action

17. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Olajobi's case, the Tribunal first considered whether to conclude the case by taking no action.

18. The Tribunal found that there were no exceptional circumstances such as would justify taking no action against Dr Olajobi's registration. The Tribunal determined that, in view of the serious nature of the Tribunal's findings on impairment, it would be neither sufficient, proportionate nor in the public interest to conclude this case by taking no action.

## Conditions

19. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Olajobi's registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

20. The Tribunal noted that Dr Olajobi's registration is currently subject to conditions and that he has complied with them. Although the Tribunal considered that workable conditions may be capable of being formulated, it did not find they would be appropriate or commensurate with the seriousness of this case. The Tribunal was of the opinion that imposing conditions on Dr Olajobi's registration would not adequately reflect the serious nature of his sexually motivated misconduct involving a vulnerable patient. It also took the view that imposing conditions on Dr Olajobi's registration would not be sufficient to maintain confidence in the profession or maintain proper professional standards.

21. Further, the Tribunal considered that conditions would not send the appropriate signal to Dr Olajobi, the profession or the public about what is regarded as behaviour

expected of a registered doctor. The Tribunal therefore determined that imposing conditions on Dr Olajobi's registration would be insufficient in this case.

## Suspension

22. The Tribunal then went on to consider whether suspending Dr Olajobi's registration would be appropriate and proportionate.

23. The Tribunal carefully considered its findings in this case, its previous determination on impairment, and the submissions advanced by the parties. The Tribunal balanced the public interest with Dr Olajobi's interests.

24. The Tribunal had regard to paragraph 93 of the SG:

> 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"*

25. The Tribunal also had regard to paragraphs 145, 146, 148 and 150.

> *145 Where a patient is particularly vulnerable, there is an even greater duty on the doctor to safeguard the patient. Some patients are likely to be more vulnerable than others because of certain characteristics or circumstances, such as:*
>
> *a presence of mental health issues*
>
> *…*
>
> *e history of abuse or neglect.*
>
> *146 Using their professional position to pursue a sexual or improper emotional relationship with a vulnerable patient is an aggravating factor that increases the gravity of the concern and is likely to require more serious action against a doctor.*
>
> *148 More serious action, such as erasure, is likely to be appropriate where a doctor has abused their professional position and their conduct involves predatory behaviour or a vulnerable patient...*
>
> *150 Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.*

26. The Tribunal gave careful consideration to the aggravating and mitigating factors it has identified. It acknowledged its finding that whilst there remained a risk of repetition, that risk was low. Dr Olajobi has shown insight into the parts of his misconduct that he has admitted and he has reflected upon his actions and undertaken remediation in the form of relevant courses. It took account of the likely effect of a suspension upon Dr Olajobi's training and financial circumstances.

27. However, the Tribunal gave particular weight to the fact that the misconduct concerned persistent, sexually motivated, behaviour towards a vulnerable patient. The Tribunal considered the misconduct to be a serious abuse of trust and power, that breached a fundamental tenet of the medical profession and was a particularly significant departure from GMP. The Tribunal placed significantly more weight on these aggravating factors than the mitigating factors it has identified. It considered that it could not depart from the guidance referred to in the paragraphs of the SG which deal with abuse of professional position. The Tribunal concluded that any period of suspension would be insufficient to address the wider public interest concerns raised in this case.

28. For these reasons, the Tribunal determined that suspension would not be an appropriate sanction.

## Erasure

29. The Tribunal considered whether it would be appropriate and necessary to erase Dr Olajobi's name from the Medical Register.

30. The Tribunal took into account paragraphs 108 of the SG:

> *'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…….'*

31. The Tribunal considered paragraph 109 of the SG and concluded 109a, d, e, and i all apply in this case:

> *'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.*
> *…*
> *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 patient's rights/ exploiting vulnerable people…*
*…*
*i Putting their own interests before those of their patients …'*

32. The Tribunal has already determined that it places greater weight on the aggravating factors it has identified than the mitigating factors present in this case. It has determined that it cannot depart from the SG which specifically deals with abuse of power and trust, vulnerable patients, and conduct which is sexually motivated. The Tribunal gave careful consideration to Dr Olajobi's interests, in particular the likely effect that erasure from the register would have on his ability to remain in this country and the emotional and financial impact such a sanction would have.

33. However, it concluded that the misconduct was of such a serious nature as to be fundamentally incompatible with continued registration. The public interest outweighed the doctor's interests.

34. Given its findings, the Tribunal determined that a lesser sanction than erasure would not sufficiently protect the public, maintain public confidence in the profession and uphold proper professional standards for members of the profession.

35. In all the circumstances, the Tribunal therefore concluded that it was necessary and proportionate to direct that Dr Olajobi's name be erased from the Medical Register.

## Determination on Immediate Order - 28/05/2021

1. Having determined to erase Dr Olajobi's name from the medical register, 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, Ms Goring submitted that given the Tribunal's findings, it is necessary for the protection of members of the public and in the public interest, to impose an immediate order of suspension on Dr Olajobi's registration.

3. On behalf of Dr Olajobi, Ms Manning-Rees submitted that the Tribunal should impose an immediate order of conditions to allow time for Dr Olajobi to tie up things where he is currently working and establish some matters in relation to his visa.

### Tribunal's decision

4. The Tribunal has taken account of the relevant paragraphs of the SG in relation to when it is appropriate to impose an immediate order. Paragraphs 172 and 173 of the SG 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.'*

5. The Tribunal determined that given the serious nature of Dr Olajobi's misconduct an immediate order of suspension was necessary to maintain public confidence in the profession and to protect the public. The Tribunal noted that in accordance with Section 38 of the Medical Act 1983, the Tribunal did not have the discretion to make an immediate order of conditions.

6. This means that Dr Olajobi's registration will be suspended from today. The substantive direction for erasure, will take effect 28 days from when written notice of this determination has been served upon Dr Olajobi, 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 currently imposed on Dr Olajobi's registration will be revoked when the immediate order takes effect.

8. That concludes this hearing.

Confirmed
**Date** 28 May 2021 Mrs Jayne Wheat, Chair

Schedule 1

| Date | Time | Message |
|---|---|---|
| 08/10/2019 | 14:48 | 'You are welcome my darling'<br>said in response to Patient A stating<br>'Thanks for your help today x' |
| | 15:13 | 'It's aii too if you want a change of environment and want to come To mine It helps sometimes' |
| | 15:23 | 'Well maybe watch a movie and chat'<br>'Just get to know you more'<br>said in response to Patient A stating 'what would you want to do?' |
| | 16:35 | 'Just home and problems a glass of wine . You are welcome to come along if it's ok with you'<br>said in response to Patient A stating 'Any other plans apart from the library tonight?x' |
| | 17:38 | 'But you still can if you want to. U can rest up at mine'<br>said in response to Patient A stating 'I would if I wasn't feeling so poorly' |
| | 17:45 | 'No worries hun' |
| | 17:52 | 'How old do I look?'<br>said in response to Patient A asking 'How old are you? X' |
| | 17:59 | 'I could have offered'<br>said in response to Patient A stating 'Id lovee a massage rn everywhere aches' |
| | 18:07 | 'That's absolutely fine'<br>said in response to Patient A stating<br>'maybe you can give me one when I'm feeling better' |
| | 18:08 | 'I need to know ur naughty side as well' |
| | 18:08 | 'Really wish you were felling ok to be around . Would have really been nice' |
| | 18:33 | 'I was willing to come pick u and nurse I while I study' |
| | 18:37 | 'And sure would be nice to have you come over' |
| | 19:04 | 'I am way older than you hun'<br>said in response to Patient A asking 'Ok so how old are you then?' |

| | | |
|---|---|---|
| | 19:39 | '???'<br>said quoting your earlier message of 'I need to know ur naughty side as well' |
| | 20:11 | 'Too old ??'<br>said having revealed your age to Patient A |
| | 20:12 | 'What time do u want to come tomorrow?' |
| | 20:14 | 'I checked it and it was ok hun'<br>said in response to Patient A asking 'What can I do to ease my sore throat?' |
| | 20:14 | Emoji (sticking tongue out and winking) |
| | 20:14 | 'Maybe some kisses'<br>said in response to Patient A asking 'What can I do to ease my sore throat?' |
| | 20:17 | 'Naughty'<br>said in response to Patient A stating 'maybe' in response to your message stating 'Will have a lot tomorrow again ok' |
| | 20:17 | 'U still haven't told me ur naughty side ?'<br>said in response to Patient A stating 'Thank u x' |
| | 20:18 | 'Would have been so perfect tonight though. You being around'<br>said in response to Patient A stating 'I want to get to know you first' |
| | 20:18 | 'Late night and lazy morning' |
| | 20:18 | '*late night and early morning' |
| | 20:19 | 'Late morning I mean' |
| | 20:21 | 'Be my guest darl . At ur time'<br>said in response to Patient A stating 'I'm not easy lol you gotta be patient', 'would've been nice' and 'Loveee to have my hair played with right now' |
| | 20:21 | 'Then you should have been here'<br>said in response to Patient A stating 'I'm not easy lol you gotta be patient', 'would've been nice' and 'Loveee to have my hair played with right now' |
| | 20:21 | 'And what else ?'<br>said in response to Patient A stating 'Loveee to have my hair played with right now' |
| | 20:26 | 'And ???' |

| | | |
|---|---|---|
| | | said in response to Patient A responding 'back tickles' to your message stating 'And what else ?' |
| 09/10/2019 | 07:54 | 'Good morning hun' |
| | 08:05 | 'Can I call you ?' |
| | 08:06 | 'Should I come pick you up ?' said in response to Patient A stating 'I can't really speak over the phone right now I can't stop crying and panicking I had horrible night mares' |
| | 08:42 | 'You need to trust me enough' |
| | 08:53 | 'I am here if you need to talk to someone hun' |
| | 09:00 | 'I wish you would see the brighter side of everything hun' |
| | 10:49 | 'Fancy popping in ?' said in response to Patient A asking 'What movies you are into?' |
| | 10:50 | 'You can watch some movies while I study' |
| | 11:42 | 'That's absolute Ohk' said in response to Patient A stating 'I might pop round to watch a film after' |
| | 11:45 | 'What's ur name on fb' |
| | 11:45 | 'Will send a request' |
| | 13:45 | 'Let me know anyways' said in response to Patient A stating 'I was going to come to yours but I feel sooo sick so I'm just gonna wait a bit to see if it subsides' |
| | 14:25 | 'That's so cool' said in response to Patient A informing you that she thinks she is XXX tall |
| | 14:38 | 'Hardly see a tall lady' said in response to Patient A stating 'Very tall for a woman' |
| | 14:38 | 'So it's unique' said in response to Patient A stating 'Very tall for a woman' |
| | 14:52 | 'Any update ? Still coming ? |
| | 15:37 | 'We can see come other time' said in response to Patient A stating 'I'm still feeling really sick, if you give me a few minutes we could video call?' |

| | | |
|---|---|---|
| | 15:37 | 'Call when you can'<br>said in response to Patient A stating 'do you not want to call?' |
| | 15:38 | 'Sure call when you can'<br>said in response to Patient A stating 'do you not want to call?' |
| | 16:15 | 'Will talk later then' |
| | 15:15 | Emoji (winking) |
| | 16:19 | 'Try and stay awake a lil longer'<br>said in response to Patient A stating 'if I'm asleep by the time you're done tonight I could come over tomorrow' |
| | 17:12 | 'Anyways I hope we can still see this evening and talk about a lot of things' |
| | 17:12 | 'So stay awake abit linger' |
| | 18:08 | 'Pictures ?' |
| | 22:59 | 'Send your postcode. Are you still awake ?' |
| 11/10/2019 | 21:28 | 'Say something . What's going on with you ?' |
| | 21:28 | 'Where are you?' |
| 12/10/2019 | 19:06 | 'What's going on with you ?' |