PUBLIC RECORD

Dates: 07/08/2023 - 11/08/2023

Medical Practitioner's name: Professor Edward TUDDENHAM

GMC reference number: 1204960

Primary medical qualification: MB BS 1968 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, 3 months

Tribunal:

Legally Qualified Chair	Mrs Alison Storey
Lay Tribunal Member:	Dr Amit Jinabhai
Medical Tribunal Member:	Dr Neil Smart

Tribunal Clerk:	Ms Fiona Johnston

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Ben Rich, Counsel, instructed by Medical Protection
GMC Representative:	Ms Kathryn Johnson, 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 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 Impairment - 10/08/2023

(1) THE FACTS

Background

1. Professor Tuddenham qualified with an MB BS in 1968 from the University of London. He holds fellowships at the Royal College of Physicians (UK), Royal College of Pathologists (UK), the Royal College of Physicians, Edinburgh and the Academy of Medical Sciences UK. Following a 50-year career as a practitioner and lecturer in haematology, he currently holds the position of Honorary Consultant Haematologist at the Katharine Dormandy Haemophilia Centre, London.

2. It is alleged that between 2016 and 2021, on one or more occasions, Professor Tuddenham inappropriately prescribed a controlled substance to Patient A and failed to inform Patient A's GP. It is further alleged that Professor Tuddenham dishonestly issued some of the prescriptions for Patient A in the names of other people.

Events that led to the allegation

3. On 6 October 2021, Patient A was XXX and was seen by XXX, Dr B. A diagnosis of XXX was made. In addition, Dr B was concerned about her XXX health due to a number of different medications being used, which were causing her health to deteriorate. Patient A also suffered with XXX. It was reported that Patient A was taking the following the medication:

- XXX
- XXX
- XXX
- XXX
- XXX

- XXX
- XXX
- XXX
- XXX
- XXX
- XXX
- XXX
- XXX
- XXX
- XXX
- XXX

4. Patient A was being prescribed five XXX medications by the GP Surgery and she had also been purchasing XXX online. It is alleged that Professor Tuddenham was also prescribing XXX to Patient A at the same time.

5. As part of XXX, Professor Tuddenham was asked to write a letter to Patient A explaining XXX. He did write such a letter and in it he adimitted to prescribing XXX to Patient A. This letter was made available to Dr B

6. Dr B made the disclosure to the GMC on 2 November 2021, by completing the online complaint form. Professor Tuddenham later self-referred himself to the GMC on the 3 November 2021.

Application for the proceedings to be heard in private

7. At the outset of the hearing, Mr Ben Rich, Counsel, on behalf of Professor Tuddenham, made an application under Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') for the public to be excluded from the entirety of the proceedings. The Tribunal's full decision on the application is included at Annex A.

The Outcome of Applications Made during the Facts Stage

8. The Tribunal granted applications by Ms Kathryn Johnson, counsel, on behalf of the GMC, made pursuant to Rule 17(6) of the Rules, to amend Paragraph 3 of the allegation. Mr Rich, did not oppose the application. The Tribunal was satisfied that the proposed amendments could be made without injustice and clarified the allegation for Professor Tuddenham and so granted the application.

The Allegation and the Doctor's Response

9. The Allegation made against Professor Tuddenham is as follows:

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

1. Between 2016 and 2021 on one or more occasion you prescribed a controlled substance, XXX, to Patient A. **Admitted and found proved**

2. Your actions as set out at paragraph 1 were inappropriate for the reasons set out in Schedule 1. **Admitted and found proved**

3. You issued <u>some of</u> the prescription(s) referred to at paragraph 1 in the names of people other than Patient A. **Amended under Rule 17(6). Admitted and found proved**

4. You failed to inform Patient A's GP of your actions as set out at paragraph 1. **Admitted and found proved**

5. Your actions at paragraph 3 were dishonest. **Admitted and found proved**

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

The Admitted Facts

10. At the outset of these proceedings, through his counsel Mr Rich, Professor Tuddenham made admissions to all 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 were admitted and found proved.

<u>(2) IMPAIRMENT</u>

11. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out above, Professor Tuddenham's fitness to practise is impaired by reason of misconduct.

Factual Witness Evidence

<u>Dr B</u>

12. Dr B provided a witness statement dated 8 March 2023. She is a consultant XXX and was involved in the care of Patient A from 6 October 2021 when she carried out an assessment. Dr B was concerned about Patient A's health and the number of different medications being used XXX. These included five XXX medications, which when prescribed

together can be hazardous in terms of risk of overdose, respiratory depression and falls and accidents. Patient A had disclosed that she was also obtaining XXX online.

13. Patient A had told her that her oxygen saturation levels could be as low as 50%. She had also experienced blackouts as a result of her medications.

14. Dr B arranged for Patient A to be admitted to hospital XXX. Following discharge Patient A was XXX. Dr B also made contact with Patient A's GP over her concerns about the polypharmacy in this case.

15. XXX. Such a letter was requested from Professor Tuddenham and it was received on 1 November 2021 the letter was seen by XXX who referred it to Dr B. Dr B was concerned about the contents of the letter which referred to Professor Tuddenham prescribing further XXX to patient A in the knowledge that it was dangerous and carried a risk of respiratory depression. Further concerns were raised by descriptions of decreased consciousness and oxygen desaturation referred to in the letter.

16. As a result Dr B decided to report the matter to the GMC. XXX The referral to the GMC was made on 2 November 2021.

17. Dr B has exhibited her assessment which included her assessment of the risks of the medications which Patient A was taking. This included the fact that five medications were being taken to the point of highly reduced consciousness in the evening and this carried a risk of falls, respiratory arrest and choking.

18. She noted that the combination of XXX medication prescribed was hazardous in terms of risk of XXX with adherent risk of overdose, respiratory depression, falls and accidents. Patient A was also experiencing XXX because of the medication.

<u>Professor Tuddenham</u>

19. Professor Tuddenham provided a witness statement dated 19 July 2023 in which he stated XXX. Patient A had been taking XXX since 2005, for XXX, and this was prescribed by her GP. In 2013 she developed XXX and was prescribed a number of medications including XXX.

20. Over time she became tolerant of the medication, requiring higher doses to manage her symptoms. She wanted more XXX than her GP would prescribe and in 2016 she asked Professor Tuddenham to write her a prescription for this when she had run out. He said that he reluctantly agreed, believing it would be a '*one-off*'. However, he went on to prescribe XXX at first every few months, but increasing in regularity over time. Eventually he was prescribing this every month.

21. XXX He said that at the time of prescribing the drug he was not aware that it was now a controlled drug. He realised that patient A XXX and that he was contributing to this by his additional prescribing . He said that he tried to talk to Patient A about getting help and told

her that he should not be prescribing for her. He said that he was deeply ashamed of what he did.

22. XXX

23. Professor Tuddenham had started to become concerned about his prescribing and in 2020 Patient A suggested that he should write the prescriptions in the names of other people, which he did, against his better judgement. He said that XXX and allowed XXX to outweigh the risk of doing what he knew to be wrong. Looking back now he said that his judgement was distorted and impaired, but he did not realise that at the time.

24. In May 2021 he XXX. Mr C told him that he must stop prescribing for Patient A immediately. It was then that the realisation of the gravity of the risks to both Patient A and him began to dawn on him. He has never prescribed for Patient A since then.

25. Patient A XXX in October 2021 XXX. He wrote the letter on 29 October 2021, and he was told by Patient A on 1 November 2021 that Dr B was going to refer the matter to the GMC, due to contents of the letter.

26. Professor Tuddenham self-referred to the GMC on 3 November 2021. He referred to the prescribing to Patient A but did not mention that he had prescribed in the names of other people as well. He said that he knew that Dr B was sending the letter to the GMC and that it contained all of the details. He said that it was not a deliberate omission but an oversight.

27. Since XXX Patient A’s medications are managed by her GP, and he said that he will never write another prescription for any relative or friend.

28. He said that he has gained resilience through XXX

29. He has undertaken a course in professional ethics in June 2022, dealing with how to keep professional and personal life apart, and the importance of these boundaries. He said that he strives to live and work maintaining high ethical standards of practice and behaviour.

30. He accepts that he should not have prescribed for Patient A, it contributed to XXX and was putting her life at risk. He let XXX interfere with his professional judgement, prescribing inappropriately and contrary to his professional obligations. He said that he was sorry for his actions and has learned a lasting lesson.

31. In his oral evidence Professor Tuddenham told the Tribunal he went to see Mr C in May 2021, and he described the entire situation to him. He said this was a wake up call but he did not refer himself to the GMC as he was in a desperate situation XXX. He said Mr C was absolutely adamant that he should not continue to prescribe for Patient A. Mr C made him see it was professionally completely wrong, against his own best interests, and indeed also against the best interests of Patient A.

32. He said that he must have written more than 50 prescriptions for Patient A over four-five years. Of those around 15 were made out in the names of XXX, although he knew that the drugs were in fact for Patient A. Each time he would prescribe 28 tablets, when Patient A would run out of her supply from her GP. He explained that he did not think about telling his regulator, as it seemed to him it was XXX.

33. XXX

34. XXX

35. XXX

36. XXX

37. XXX

38. XXX

39. He told the Tribunal that he has looked deeply at his actions. He has considered in depth the full spectrum of his activities when he was prescribing for Patient A and the context of XXX. He said he is totally disgusted and ashamed of himself for having done that.

Documentary Evidence

40. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited to witness statements, emails, GMC Online Concerns Form, self-referral form, letter from Patient A, Curriculum Vitae ('CV') of Professor Tuddenham, CPD Certificates and three testimonials.

Letter from Professor Tuddenham XXX

41. The letter was sent on 29 October 2021 XXX

42. He referred to his concerns about Patients A's health XXX

43. He referred to Patient A regularly asking him to prescribe more XXX than the GP would supply and that he found this hard to resist due to XXX. He had been writing scripts regularly in the name of XXX others, seriously endangering his GMC registration if it came to light.

44. He referred to his knowledge that she had been increasing her drugs intake by ordering from online pharmacies XXX.

45. XXX

46. XXX

Letter From Patient A

47. Patient A sent a letter on 26 November 2021 to the GMC. She set out some of her medical problems and the difficulty in managing them. She was being prescribed more and more medication by her GP and referred to being trapped in a vicious circle of needing more medications to manage her symptoms, XXX.

48. She had asked Professor Tuddenham to prescribe her more XXX. He had repeatedly told her he could get into trouble and it was her suggestion that he use the names of XXX for the prescriptions.

49. She said that he XXX wanted to help her. She said that he did not know the extent of the medications she was taking as she was lying to him, XXX. When things began to unravel, and she could not hide XXX any longer he refused to prescribe any further drugs for her.

50. She said that he had been relentless in trying to get her to realise the extent of XXX, but she wasn't willing to listen as she was in denial. XXX She said that he was in an untenable position, and she took advantage of him.

XXX

51. XXX

52. XXX

53. XXX

54. XXX

55. XXX

56. XXX

Reflective Statements

57. Professor Tuddenham has provided two reflective statements, one dated 16 May 2022 and the other undated.

58. His first statement reflects on the whole matter. He accepts that he breached the standards of care and that it was not appropriate for any patient, XXX. He accepts that his poor judgement cannot be excused but is explained by XXX. "*There is a slippery slope down which one can slide by imperceptible then more rapid degrees*".

59. He acknowledges the pitfalls inherent in prescribing for XXX; errors in diagnosis, capitulating to undue pressure, the risk/benefit ratio is distorted, there is no dispassionate evaluation and that motives can be mixed and misinterpreted. He reflects that there can be no medication that can justifiably be prescribed for a relative or friend, other than over the counter medications.

60. He acknowledges that doctors are granted privileges such as prescribing controlled drugs and that they should update and maintain their knowledge and practice and that he has received a salutary reminder to maintain his own knowledge across all areas of professional conduct.

61. His second statement reflects on his learning. He has considered the GMC Advice on prescribing, which he considered lucid and well-presented and had he taken the time to read it he would not have fallen into error as he did.

62. He referred to the issues with prescribing for XXX where there was lack of unbiased evaluation, pressure which can come to bear and confusion between personal and professional standards. He realises that it is impossible to fully separate the personal from the professional in such cases, which is why they must be kept separate in practice. *'One can only too easily be led into poor practice when XXX have influence on one's judgement'*.

<u>Testimonials</u>

63. Professor Tuddenham has provided three testimonials who all praise his work in haemophilia and his professionalism and character.

64. Professor Tuddenham has also produced a certificate to confirm his completion of a course with the Professional Boundaries Company.

Submissions

<u>Ms Johnson on behalf of the GMC</u>

65. On behalf of the GMC, Ms Johnson submitted that Professor Tuddenham's actions amounted to serious misconduct and that his fitness to practise is currently impaired by reason of his misconduct which included dishonesty. She directed the Tribunal to the principles set out in Good Medical Practice ('GMP'), the prescribing guidance and relevant legal authorities.

66. She said that Professor Tuddenham had breached several fundamental tenets of GMP which are serious and amounted to serious misconduct.

67. She submitted that he prescribed a controlled drug repeatedly for Patient A and it was over a significant period of time, on several occasions prescribing in the names of XXX,

the total period was in the region of four to five years. She submitted that his actions in prescribing the controlled drug XXX and also that it put her life at risk.

68. Ms Johnson submitted that the prescribing guidance, both those that which were in existence between 2013 and the 5 of April 2021 and the new guidance from 5 April 2021 make clear that there is a distinction between prescribing a controlled drug and prescribing a non-controlled drug.

69. She submitted that the prescribing guidance states that, wherever possible, you must avoid prescribing for someone with whom you have a close personal relationship. It also sets out that controlled medicines present particular dangers as they are associated with drug misuse, addiction and misconduct. The Guidance also states that you must not prescribe a controlled medicine for yourself or someone close to you, with the exception of emergency situations.

70. She submitted that the Guidance also stated that if any prescription is made for the doctor himself or someone close to them, they must make a clear record at the same time or as soon as possible, but Professor Tuddenham failed to make any record.

71. She said that if it was the case that he was not fully aware of the guidance at the time or that the drug involved was actually a controlled drug this cannot be an excuse and that it is an aggravating feature that he failed to check the status of the drug and also failed to check the guidance. GMP requires doctors to keep their professional knowledge up to date.

72. She referred to the risks set out in Dr B's assessment XXX. It was submitted that this aspect alone amounted to serious misconduct. The admitted dishonesty was a serious aggravating feature.

73. She submitted that honesty is a fundamental tenet of the profession and breach of this brought the profession into disrepute.

74. She said that it is rare if there has been a finding of dishonesty that impairment does not follow, as dishonesty is a breach of a fundamental tenet of the profession.

75. She submitted that there has been very little reflection upon the impact of his actions on XXX and the dishonesty in the fact that he knowingly used the names of others to write the prescriptions for Patient A. His insight is not fully developed, and his remediation limited.

76. Ms Johnson submitted that a finding of impairment was required to protect and promote the health, safety and wellbeing of the public, promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

77. She referred the Tribunal to the case of *GMC v Armstrong* 2021 which states that in cases of dishonesty it will be rare that a finding of impairment does not follow. Whilst direct

factual comparisons should not be made, they can shed light on the kind of factors which may or may not be regarded as possessing inherent weight or significance. Those cases where there has not been a finding of impairment have involved isolated incidents with no question of financial gain. They were in the nature of uncharacteristic lapses in what may be described as frontline challenging situations involving direct interaction between professional and patient (or patient's relative).

78. It also states that undue leniency risks undermining general public confidence in the regulator's ability to protect the public from harm.

Mr Rich on behalf of Professor Tuddenham

79. Mr Rich submitted that Professor Tuddenham has fully accepted that he felt short of the standards expected of a medical professional and that his conduct amounts to serious misconduct.

80. He submitted that this is not a protection of the public case as there is no risk of repetition and it was wholly unrealistic that he would repeat his misconduct. XXX He submitted that Professor Tuddenham has full insight into his misconduct.

81. XXX

82. He submitted that it is a public interest case, and one of the ways in which the issue in a public interest case can be assessed is to consider whether a fair-minded member of the public in possession all the facts would be shocked or concerned if there were not a finding of impairment. In this particular case, they would not require a finding of impairment.

83. He agreed that *Armstrong* was a helpful case as it considered the nature and degree of dishonesty when a Tribunal is deciding on impairment. The facts in that case though were very different to this one in that the dishonesty was on a large scale. He said that whilst dishonesty usually leads to a finding of impairment, each case should be considered on its own merits. A few cases have an exceptional feature, and this was one of those.

84. He said that the fact that Professor Tuddenham had not referred to dishonesty in his written reflections was not a surprising omission, as dishonesty was not alleged in the initial Allegations. The centre of this case is the prescribing. Dishonesty aggravates the prescribing, but it is not the centre of the case.

85. He submitted that XXX. When the situation and causes are considered and balanced with the extraordinary and blemish free public service Professor Tuddenham has given over 55 years as a doctor, together with the vital research work that he still undertakes, then no finding of impairment is required.

86. With regards to public safely, he submitted that if the Tribunal were to conclude that there was a risk of repetition in this case, then it would be a public safety case because there

is no doubt that there is a safety issue involved, albeit it will be a public safety case related to one member of the public only, Patient A.

87. Professor Tuddenham had always been aware that what he was doing was not right and that he should not be doing it. It had developed incrementally. He had said to Patient A on occasions that it was a risk to his professional standing and GMC registration. Once he had XXX Mr C and his conduct was reflected back to him and he saw the instantaneous and obvious reaction from another medical practitioner he immediately stopped prescribing to Patient A and had never prescribed to her again.

88. XXX

89. He submitted that it is accepted that what Professor Tuddenham did was risky to Patient A, but it was not done out of hostility or lack of care. It was done XXX.

90. XXX

91. XXX

92. XXX

93. XXX

94. He said that this was a highly unusual case, and it was accepted by Patient A that she had XXX. This broke down his professionalism XXX

95. He submitted that a person's will can be overborne, and they can by caused to behave in ways which are not rational. XXX.

96. He submitted that since the referral to the GMC he has remediated himself, he had stopped prescribing medication for Patient A in May 2021, and has his demonstrated XXX

97. He referred the Tribunal to Professor Tuddenham's reflective statement, he submitted that he acknowledges the poor judgment and the breaches of standards of care, he also reflects on the pitfalls of prescribing for XXX.

98. He has remediated his poor knowledge of the prescribing guidelines. He understands the damage to the profession of such conduct and has completed a course in maintaining professional ethics.

99. He submitted that he has a very remarkable CV, 55 years of previously unblemished service to the medical community, and in particular to the National Health Service. He said he is an outstanding and renowned clinician and researcher, he has provided enormous benefit to the haemophiliac community in particular.

100. He referred the Tribunal to the three testimonials provided, all three speak highly of Professor Tuddenham.

101. He submitted that whilst being a good or outstanding doctor does not excuse misconduct it is relevant when weighing whether misconduct damages the medical profession. He said that a fair-minded member of the public, seeing this eminent, careful, ethical and extensive career, might require less reassurance than perhaps in other circumstances. He further submitted that this misconduct arose out of a unique set of circumstances which will never be repeated, and he has remediated the specific misconduct.

102. He said that Professor Tuddenham has pursued a distinguished career and made a significant contribution to medicine. The medical profession would not suffer if the Tribunal were to make a finding of no impairment.

The Relevant Legal Principles

103. 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.

104. The Legally Qualified Chair (LQC) reminded the Tribunal of the over-arching objective and emphasised the importance of considering the objective as a whole and not giving excessive weight to any one limb.

105. The LQC reminded the Tribunal of the two-stage test to be adopted as derived from the case of *Cheatle v. General Medical Council* [2009] EWCA 645)**;** the Tribunal must first consider whether the facts found proved amount to misconduct and second whether Professor Tuddenham fitness to practise is impaired by reason of misconduct.

106. The LQC referred to the case of *Roylance v GMC (No 2)* [2000] 1 AC 311, in that, *"Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances".* The LQC also reminded the Tribunal that it was generally an accepted position that the kind of serious misconduct required is such as would be described as *"misconduct that would be regarded as deplorable by fellow practitioners"*

107. The Tribunal must determine whether Professor Tuddenham'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 if there is a likelihood of repetition.

108. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High

Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin. The Tribunal noted the questions posed in that case as follows:

> '*Do our findings of fact in respect of the doctor's misconduct show that his FTP 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 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.'*

The Tribunal's Determination on Impairment

Misconduct

109. In determining whether Professor Tuddenham's fitness to practise is impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amount to misconduct.

110. Throughout its deliberations, the Tribunal took account of the statutory overarching objective of protecting the public, which includes protecting the health, safety, and wellbeing of the public, maintaining public confidence in the profession, and promoting and maintaining proper professional standards and conduct for the members of the profession.

111. The Tribunal considered that paragraphs 1, 16(a)(b)(f)(g), 65, 68, and 71, of GMP were engaged in this case:

> *'1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent…. establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*
>
> *…*
>
> *16 In providing clinical care you must:*

a. *prescribe drugs or treatment, including repeat prescriptions, only when you have adequate knowledge of the patient's health and are satisfied that the drugs or treatment serve the patient's needs*
b. *provide effective treatments based on the best available evidence*

.....

f. *check that the care or treatment you provide for each patient is compatible with any other treatments the patient is receiving, including (where possible) self-prescribed over-the-counter medications*

.....

g. *wherever possible, avoid providing medical care to yourself or anyone with whom you have a close personal relationship.*

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

...

68 *You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.*

...

71 *You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.*

a *You must take reasonable steps to check the information is correct.*

b *You must not deliberately leave out relevant information.*

112. The Tribunal also took into consideration paragraphs 67, 68 and 69 of the Good practice in prescribing and managing medicines and devices guidance.

67 *Wherever possible, you must avoid prescribing for yourself or anyone you have a close personal relationship with.*

68 *If you prescribe any medicine for yourself or someone close to you, you must:*

a *make a clear record at the same time or as soon as possible afterwards; the record should include your relationship to the patient, where relevant, and the reason it was necessary for you to prescribe*

b *follow the advice on information sharing and safe prescribing in paragraphs 27 to 33 and 53 to 58.*

69 *You must not prescribe controlled drugs for yourself or someone close to you unless:*

a *no other person with the legal right to prescribe is available to assess and prescribe without a delay*

b *emergency treatment is immediately necessary to avoid serious deterioration in health or serious harm.'*

113. The Tribunal noted that Professor Tuddenham prescribed for Patient A on numerous occasions, over a period of approximately four-five years. These prescriptions were for XXX which is a controlled drug, with the associated risk of substance misuse XXX. Professor Tuddenham had conceded in his oral evidence that his actions contributed to XXX. The Tribunal considered that these actions constituted a marked departure from the principles set out within GMP and the GMC prescribing guidance on a number of occasions.

114. The Tribunal considered that repeatedly issuing prescriptions for a controlled drug to a person who had a close personal relationship to him fell seriously below the standards expected of a reasonably competent doctor and amounted to serious misconduct.

115. The Tribunal considered the circumstances of this case were particularly serious because Professor Tuddenham was aware that Patient A was already being prescribed a large number of XXX drugs and was in addition obtaining further drugs from the internet. He was aware of the profound and potentially life-endangering effects the drugs were having upon Patient A XXX and yet he continued to prescribe to Patient A.

116. The Tribunal was satisfied that dishonestly producing prescriptions in the names of XXX and giving the medications to Patient A also amounted to serious misconduct.

117. The Tribunal was of the view that Professor Tuddenham's actions throughout were deliberate and executed over a long period of time. Further Professor Tuddenham had no access to Patient A's medical records and so could not properly assess whether the prescription was safe and appropriate. Further he did not inform her GP that he had prescribed her the medications. Had the GP had been made aware they would have been able to assess the overall safety of the totality of the medications which Patient A was receiving. It found that Professor Tuddenham as a licenced doctor should have made himself aware of the Good Medical Practice Guidance on prescribing and the latest GMC prescribing

guidance. He should have taken steps to consider the nature of the drug XXX and he would then have known that it was a controlled drug.

118. It was the Tribunal's view that Professor Tuddenham's conduct constituted a serious departure from GMP and the prescribing guidance as identified above. Professor Tuddenham's conduct fell short of what was expected of him as a medical professional.

119. Taking all of those factors into consideration, the Tribunal concluded that Professor Tuddenham's actions amounted to misconduct which was serious.

Impairment

120. Having found that the facts admitted and found proved amounted to serious misconduct, the Tribunal went on to consider whether, because of that misconduct, Professor Tuddenham's fitness to practise is currently impaired. Throughout its deliberations, the Tribunal had regard to all the three limbs of the statutory overarching objective, namely to:

- protect and promote the health, safety and wellbeing of the public;
- promote and maintain public confidence in the medical profession; and
- promote and maintain proper professional standards and conduct for the members of the profession.

121. The Tribunal considered whether all three limbs of the test were engaged as set out above. The Tribunal considered that Professor Tuddenham's actions in prescribing a controlled drug to Patient A over a period of four-five years, without notifying her GP, put her at risk of harm. The Tribunal concluded that the exposure to the risk of harm was unwarranted Additionally it impacts on public confidence in the profession and maintenance of professional standards. His actions in falsifying prescriptions for a controlled drug XXX was capable of affecting public confidence in the proper standards of conduct in the profession.

122. The Tribunal considered whether Professor Tuddenham's misconduct was capable of being remedied, had been remediated, and whether it was likely to be repeated. In so doing, it considered whether there was evidence of Professor Tuddenham's insight into his misconduct.

123. The Tribunal took into account that Professor Tuddenham had made full admissions to the Allegations at the outset of the hearing. The Tribunal accepts that at the time Professor Tuddenham was XXX. The Tribunal was satisfied that the remorse and regret demonstrated by Professor Tuddenham was genuine. The Tribunal was of the view that Professor Tuddenham now understands the potential risk to patient safety of prescribing medication, in particular controlled drugs.

124. The Tribunal noted Professor Tuddenham's CV and testimonials. He has had a glittering career, and has achieved much for people with haemophilia. It was clear to the

Tribunal that Professor Tuddenham is a well-regarded and highly competent doctor, who has a longstanding unblemished 55-year career in the NHS.

125. The Tribunal noted that Professor Tuddenham has now recognised the gravity of his dishonesty, and the potential to seriously undermine the reputation of the profession. He has not dealt with dishonesty within his written reflections, however they were submitted before an allegation of dishonesty was added to the allegations. When he was asked about dishonesty during his oral evidence, he stated '*it was more than dreadful mistake, it was a very bad example of misuse of power of being a doctor*'. Professor Tuddenham spoke freely about his actions and was able to address the impact of the wider public perception of his dishonesty and how that would affect public confidence in the profession.

126. The Tribunal next considered the risk of repetition. The Tribunal took into consideration the particular and unusual circumstances in this case. It acknowledges that the course of conduct took place when XXX Patient A, who was XXX and making continuous demands on Professor Tuddenham to supply her with more drugs. It noted that some of the prescriptions were dishonestly obtained in a misguided attempted to help Patient A XXX.

127. The Tribunal considered that the circumstances at the time which led to Professor Tuddenham's actions were stressful. XXX

128. XXX

129. The Tribunal also considered Professor Tuddenham's previous good character and that there had been no repetition of prescribing or dishonesty since May 2021.

130. The Tribunal considered that there was no real risk of repetition in this case and it was not a public safety case. Notwithstanding that the Tribunal did not consider that there was a risk of repetition, it had to consider the impact on public confidence in the profession and the maintenance of proper standards and conduct.

131. As already stated the Tribunal considered the misconduct was very serious, both in regard to the prescribing and the dishonesty. The prescribing was regular and repeated over a long period of time; on at least 50 occasions. The drug was a controlled drug, supplied to a person XXX and in circumstances where he knew that the extent of Patient A' drug taking was having deleterious effect on her health and put her life at risk. Professor Tuddenham was aware of this.

132. The dishonesty was also extensive, occurring on around 15 occasions over a period over a year. The Tribunal considered that dishonesty is particularly difficult to remediate and that it is rare for a finding of dishonesty not to lead to a finding of impairment. Those cases where this occurred had to be exceptional and were usually isolated incidents. The Tribunal were mindful of the dicta in *Armstrong*, which makes it clear that the consequences of the finding of dishonesty in the regulatory context are likely to be so profound, that the facts on the other side viewed as a whole will need to be extremely strong in order for a finding of no

impairment to be justified. Further that an acknowledgment of wrongdoing and attempts at reparation only have a limited part to play in cases of serious dishonesty. In cases of significant professional dishonesty mitigation has a limited role. Finally undue leniency risks undermining the general public's confidence in the ability of the regulatory regime to protect the public from harm.

133. Professor Tuddenham's misconduct could not be described as an isolated incident, it was repeated over a number of years. Nor did the Tribunal consider the unusual circumstances as exceptional, notwithstanding the demands presented by Patient A, when viewed in light of the seriousness of the misconduct. There was regular writing of prescriptions for a controlled drug when he knew that her health was being seriously affected. There were repeated dishonest acts, over at least a year by writing prescriptions in XXX names when he knew that the drugs were for her.

134. There were persistent breaches of the fundamental tenets of the profession. Applying the test suggested by Mr Rich, the Tribunal considered that a member of the public in possession of all the facts of this case would be concerned if Professor Tuddenham was not found to be impaired.

135. The Tribunal therefore considered that in view of the serious nature of the conduct and in particular the dishonesty it would damage public confidence in the profession if a finding of impairment were not made in relation to Professor Tuddenham's misconduct. The Tribunal was also of the view that given the serious nature of the dishonest conduct, a finding of impairment was necessary to promote and maintain proper professional standards and conduct for the medical profession.

136. The Tribunal has therefore determined that Professor Tuddenham's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 11/08/2023

137. Having determined that Professor Tuddenham'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.

Submissions

On behalf of the GMC

138. On behalf of the GMC, Ms Johnson submitted that the appropriate sanction in this case was one of suspension. She referred the Tribunal to the Sanctions Guidance (2020) ('the SG') and the Tribunal's own findings at the previous stages of the hearing.

139. Ms Johnson submitted that Professor Tuddenham's actions were not an isolated incident but were sustained and repeated. He prescribed to Patient A for four to five years and this misconduct caused a serious risk to her health and XXX. There was dishonesty in the latter part of his prescribing, for around one year. He also failed to consider applicable guidelines. The misconduct was a serious departure from the required standards and a breach of the fundamental tenets of the profession.

140. She acknowledged that there were mitigating circumstances in this case. She accepted that there had been full admissions by Professor Tuddenham, that he had shown genuine remorse, XXX, his good character and long-standing career. She further submitted that his actions were carried out as a misguided attempt to help Patient A and finally there has been no repetition of the misconduct. She acknowledged that the Tribunal had found that Professor Tuddenham had demonstrated both insight and remediation.

141. Ms Johnson submitted that taking no action would not be appropriate, as Professor Tuddenham misconduct was serious and there were no exceptional circumstances in this case. She further submitted that this was not an appropriate case for imposing conditions on Professor Tuddenham 's registration, the usual purpose of which is to address identified shortcomings in a doctor's practice and to remedy those deficiencies. As the misconduct in Professor Tuddenham's case was dishonesty, no conditions could be formulated that would be appropriate, measurable or workable.

142. Ms Johnson submitted that a period of suspension would be the appropriate sanction to mark the seriousness of Professor Tuddenham 's actions. This would meet the need to maintain public confidence in the profession and act as a deterrent for other members of the profession. She submitted that a lengthy order of suspension should be imposed and confirmed that the GMC sought a review hearing.

<u>On behalf of Professor Tuddenham</u>

143. Mr Rich submitted that Professor Tuddenham was of previous good character and had acted in a way that was out of character. Mr Rich recognised that the Tribunal has found that this was not an isolated incident, but he said that it related to a single course of conduct and that the risk of repetition is low. He submitted that Professor Tuddenham had shown insight and had not repeated his misconduct.

144. Mr Rich reminded the Tribunal of the unusual circumstances that led to Professor Tuddenham's actions in this case. He submitted that it arose out of XXX. Mr Rich submitted that Professor Tuddenham accepts that, while the circumstances of the case are unusual, the Tribunal has set out that it does not consider them to be exceptional.

145. He submitted that, other than the features of the misconduct there were no additional aggravating factors. The mitigating factors were his insight, his remorse, his long and trouble-free history and the personal matters as set out in the determination on impairment.

146. Mr Rich submitted that a 12-month period of conditional registration would suffice in respect of the dishonest conduct and allow Professor Tuddenham to continue with his research work. He suggested that conditions that Professor Tuddenham XXX and that he must not prescribes during the currency of the order. He conceded that conditions are usually for clinical cases but that in this case they could be used to create confidence about the practitioner.

147. He submitted that if the Tribunal were to consider that a period of suspension was required, then a short period of suspension would be the most appropriate sanction. There did not need to be a lengthy period to deal with remediation and insight. A short suspension would be sufficient to send out a signal about the importance of compliance with appropriate standards. Further, from a public point of view, a short period would enable him to return to his important work.

148. Mr Rich submitted that a review in this case was not necessary.

The Relevant Legal Principles

149. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own independent judgement. In reaching its decision on sanction, the Tribunal had regard to the SG and borne in mind the overarching objective. The tribunal reminded itself that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although any sanction imposed may have a punitive effect.

150. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Professor Tuddenham ’s interests with the public interest. It had regard to the overarching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promoting and maintaining of proper professional standards and conduct for members of the profession.

151. The Tribunal had regard to its findings of impairment as well as the submissions made on behalf of the GMC and Professor Tuddenham.

The Tribunal’s Determination on Sanction

152. The Tribunal has already set out its decision on impairment and has taken this into account during its deliberations on sanction. Before considering what, if any, action to take in respect of Professor Tuddenham’s registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

153.The Tribunal identified the following aggravating factors:

- Professor Tuddenham ’s actions in prescribing to Patient A were sustained and executed over a period of four to five years;
- The medication he prescribed to Patient A was a controlled drug XXX;
- Professor Tuddenham’s actions put Patient A’s life at risk:
- Professor Tuddenham had not adhered or considered the relevant GMP and prescribing guidelines;
- Professor Tuddenham used XXX names on prescriptions over the period of a year which was serious and repeated dishonesty.

154. The Tribunal identified the following mitigating factors:

- There were unusual circumstances in this case which led to Professor Tuddenham ’s actions; XXX. This affected his judgement;
- XXX;
- He has a good level of insight. He has acknowledged and fully accepted the Tribunal’s findings.
- He has fully cooperated with the investigation process and made admissions at the earliest opportunity both in the investigation and before the Tribunal;
- He has shown remorse;
- He has made efforts to remediate his misconduct;
- There was no personal gain in this case, Professor Tuddenham was motivated by his concern for Patient A;
- He is of previous good character and has provided positive testimonials;
- There has been no repetition of this misconduct since the events occurred; and,
- Professor Tuddenham makes an important continuing contribution to research in haemophilia.

155. The Tribunal balanced these factors throughout its deliberations and went on to consider each sanction in order of ascending severity, starting with the least restrictive.

No action

156. The Tribunal first considered whether to conclude the case by taking no action. It noted that to take no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

157. The Tribunal was satisfied that there were no exceptional circumstances in Professor Tuddenham ’s case which could justify it taking no action. It determined that, given the aggravating factors it has found and the seriousness of Professor Tuddenham ’s dishonest behaviour, to take no action would not be sufficient, proportionate nor in the public interest.

Conditions

158. The Tribunal next considered whether it would be sufficient to impose conditions on Professor Tuddenham 's registration. It had regard to paragraphs 81, 84 and 85 of the SG, which state:

> '81 *Conditions might be most appropriate in cases:*
>
> *a involving the doctor's health*
>
> *b involving issues around the doctor's performance*
>
> *c where there is evidence of shortcomings in a specific area or areas of the doctor's practice*
>
> *d where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.*
>
> ...
>
> *84 Depending on the type of case (eg health, language, performance or misconduct), some or all of the following factors being present (this list is not exhaustive) would indicate that conditions may be appropriate:*
>
> *a no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage*
>
> *b identifiable areas of their practice are in need of assessment or retraining*
>
> *c willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date throughout their working life, improving the quality of their work and promoting patient safety*
>
> *85 Conditions should be appropriate, proportionate, workable and measurable*.'

159. The Tribunal was of the view that, given the purpose of conditions, it would be unusual to impose conditions in a dishonesty case and where the considerations were to maintain public confidence in the profession and uphold proper professional standards and conduct.

160. The Tribunal considered that no conditions could be formulated which would be appropriate, workable or measurable. Further, the Tribunal determined that the imposition of conditions would not be sufficient to mark the seriousness of Professor Tuddenham's actions nor address the Tribunal's findings of impairment. An order of conditions would not adequately meet the overarching objective in a proportionate way. All of those factors made an order of conditions inappropriate.

<u>Suspension</u>

161. The Tribunal then went on to consider whether a period of suspension would adequately maintain public confidence in the profession and uphold proper standards for its members. In considering whether to impose a period of suspension on Professor Tuddenham's registration, the Tribunal had regard to paragraphs 91, 92, 93 and 97(a), (e), (f) and (g) of the SG which provide:

> *'91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. …*
>
> *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 (i.e. for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*
>
> *93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions.*
>
> …
>
> *97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*
>
> *a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.*
>
> …
>
> *e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.*

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

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

162. The Tribunal noted that Professor Tuddenham has fully acknowledged the Tribunal's findings on impairment regarding the serious impact of his dishonest behaviour. The Tribunal was satisfied that the risk of repetition is low.

163. In light of the above, and taking into account all of the evidence, submissions and its own deliberations the Tribunal determined that a period of suspension would be an appropriate and proportionate sanction when considering Professor Tuddenham 's interests with those of the public interest. It would have a sufficiently deterrent effect of sending a signal to Professor Tuddenham, the profession and the public that his conduct was unbefitting of a registered doctor and would not be tolerated.

164. The Tribunal took into account the impact that this sanction may have upon Professor Tuddenham. However, in all the circumstances the Tribunal concluded that his interests are outweighed by the need to maintain public confidence in the profession and to declare and uphold proper standards of conduct and behaviour.

165. The Tribunal did not find that the circumstances of this case would require a more serious sanction. Overall, the Tribunal decided that this case was not one where Professor Tuddenham 's misconduct is '*fundamentally incompatible with continued registration*' and therefore it considered that erasure would not be appropriate or proportionate, nor would it be in the public interest. Erasure would deny the public of an otherwise competent and well-regarded doctor.

166. The Tribunal determined therefore that an order of suspension was required in this case. It then went on to determine the length of the suspension.

Length of Suspension

167. In determining the length of the suspension, the Tribunal had regard to paragraphs 99 to 102 of SG and the table following paragraph 102.

168. The Tribunal has set out its rationale for imposing a suspension in the wider public interest in order to maintain confidence in the profession and uphold proper professional standards and conduct.

169. The Tribunal considered the aggravating factors in this case and acknowledged that this was a serious departure from the principles set out in GMP.

170. The Tribunal also had regard to the mitigating factors of the case in considering the length of the suspension. The Tribunal was satisfied that the likelihood of Professor

Tuddenham repeating his misconduct was low. He has expressed regret and remorse for how he behaved and, at the outset of the hearing, admitted to the Allegations before this Tribunal. The Tribunal acknowledged that Professor Tuddenham has accepted the Tribunal's findings. The Tribunal properly considered the effect on his research that suspending Professor Tuddenham's registration would have.

171. Taking all these elements into account, the Tribunal was satisfied that imposing a period of three months suspension was appropriate and proportionate. In the Tribunal's view this would be sufficient to satisfy the need to promote and maintain public confidence and to send out a clear message to the profession that this type of conduct is unacceptable, so as to maintain proper professional standards. A reasonable and well-informed member of the public or the profession would be satisfied that this was a proportionate response to Professor Tuddenham 's dishonest behaviour.

172. Accordingly, the Tribunal determined to suspend Professor Tuddenham 's registration for a period of three months.

Review

173. Paragraphs 163 and 164 of the SG deals with review hearings and states:

> *'163 It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.*
>
> *164 In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing.'*

174. For all the reasons set out above, the Tribunal is satisfied that a review following a short suspension of three months would serve no useful purpose. The Tribunal determined that it is not necessary to direct a review hearing.

175. Both parties submitted that an Immediate Order was not required. The Tribunal determined not to impose an Immediate Order. No separate determination was produced.

ANNEX A – 7/8/23

Application to Exclude the Public from the Proceedings

1. At the outset of the hearing, Mr Ben Rich, Counsel, on behalf of Professor Tuddenham, made an application under Rule 41(2) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') for the public to be excluded from the entirety of the proceedings.

Submissions

On behalf of Professor Tuddenham

2. Mr Rich submitted that all of the allegations are inextricably linked to Patient A's health and should be dealt with in private, in addition XXX.

178. XXX

179. XXX

180. XXX

181. He submitted that there is very little in the hearing that could sensibly be put into public and that would make sense for public in terms of the public interest in knowing.

On behalf of the GMC

182. Ms Kathryn Johnson, Counsel, on behalf of the GMC submitted it is a matter for the Tribunal and its discretion whether it feels in the circumstances of this case, that the entirety of the hearing should be in private. The GMC accept that at very least these matters should be in private would be details of Patient A's health and XXX.

183. She submitted that sensitive nature of those aspects in the case should be dealt with in private.

The Tribunal's Decision

184. The Tribunal had regard to submissions made by both parties and the evidence in this case.

185. The Tribunal had regard to Rule 41 of the Rules and noted that the default position under that Rule is that subject to enumerated exceptions, hearings shall be held in public.

186. The Tribunal considered the submissions made by Mr Rich. It considered the potential risk of XXX Rule 41(2). The Rule provides: '… (2) *The Committee or Medial Practitioners Tribunal may determine that the public shall be excluded from the proceedings or any part of the proceedings, where they consider that the particular circumstances of the case outweigh the public interest in holding the hearing in public*….'

187. The Tribunal was of the view that matters relating to XXX should be held in private. It also noted that XXX.

188. The Tribunal determined that the hearing would sit in private.