

PUBLIC RECORD

The Professional Standards Authority lodged an appeal against decisions of this Tribunal. On 27 April 2023, the High Court quashed the sanction imposed by this Tribunal of 24 months' conditional registration and ordered that Professor Lingam's case be remitted to the MPTS for reconsideration of sanction only. The judgment can be found [here](#).

The remittal Tribunal's decision on sanction is set out below.

Please also see the record of determinations from Dr Lingam's hearing which concluded on 14/10/22 and which was successfully appealed by the Professional Standards Authority. That record of determinations can be found [here](#).

Dates: 14/02/2024 - 16/02/2024 and 18/03/2024

Medical Practitioner's name: Professor Sundara LINGAM

GMC reference number: 1339512

Primary medical qualification: LRCP 1974 Royal College of Physicians of Edinburgh

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

Summary of outcome

Suspension, 10 months
Immediate order
Review directed

Tribunal:

Legally Qualified Chair	Mrs Helen Potts
Medical Tribunal Member:	Dr Kamran Shahid
Medical Tribunal Member:	Dr Farah Yusuf

Tribunal Clerk:	Mrs Rachel Horkin
-----------------	-------------------

Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Mr Saul Brody, 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 Sanction - 18/03/2024

Background

1. Professor Lingam's case was first considered by a differently-constituted Medical Practitioners Tribunal (MPT) in October 2022 ('the October 2022 Tribunal').
2. The Professional Standards Authority (the "PSA") appealed the October 2022 Tribunal's decision on sanction, under section 29(4A) of the National Health Service Reform and Health Care Professions Act 2002 ("the 2002 Act") on the basis that the sanction imposed was insufficient:

"(a) to protect the health, safety and well-being of the public;
(b) to maintain public confidence in the profession concerned; and
(c) to maintain proper professional standards and conduct for members of that profession."
3. On 27 April 2023, the High Court quashed the sanction imposed by the October 2022 Tribunal and ordered that Professor Lingam's case be remitted to the Medical Practitioners Tribunal for reconsideration on the basis of a serious procedural error in the form of inadequate and unclear reasoning as to sanction. The reasoning process was considered inadequate for the High Court to determine whether or not certain important issues had been appreciated, and if so, how they had been reasoned through. It was not, therefore, possible for the High Court to determine whether the sanction imposed was wrong.
4. This remittal Tribunal now has to decide in accordance with Rule 17(2)(n) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), on the appropriate sanction, if any, to impose. The October 2022 Tribunal's findings of facts and

determination on impairment stand. This remittal Tribunal's decision on sanction should be read in conjunction with the October 2022 Tribunal's findings of facts and determination on impairment, a summary of which is set out below.

Summary of the Facts Found Proved by the October 2022 Tribunal

5. At the October 2022 hearing, Professor Lingam made full admissions to the factual Allegation. The October 2022 Tribunal found the factual Allegation proved in its entirety by reason of Professor Lingam's admissions.

6. Professor Lingam admitted that, between 2 January 2013 and 25 March 2014, he inappropriately transcribed, signed and issued 299 private prescriptions for third party patients (the 'Patients'), whilst he was working in a private role for Medical Express Clinic (the 'Clinic'). The Patients were all based outside the UK, and he accepted that one or more of the patients named on the prescriptions did not exist.

7. He admitted that he inappropriately completed the Prescriptions at the request of Kool Pharma Limited (the 'Pharmacy'). The Pharmacy had offices in Professor Lingam's building and was his tenant. He admitted that he had not adequately investigated or monitored the system of prescription requests used by the Pharmacy. Further, he accepted that he had completed the Prescriptions based on insufficient information to allow for safe prescribing. The information provided by the Pharmacy did not contain the Patients' gender; contact details; GP or specialist medical records; Community GP contact details; proof of identity; or medical history.

8. Professor Lingam admitted that he had failed to identify a number of 'red flags' relating to the Prescriptions, including overseas consultants requesting medication to be transcribed for patients based in a different country to themselves; patients based in more economically developed countries where they could be reasonably expected to obtain the medications; the medications requested being of high value, specialist in nature (for use in an inpatient hospital setting or under the observation of secondary care in a community setting); and the potentially fatal consequences if the patient was not properly monitored during administration of the medications.

9. Professor Lingam admitted that he failed to contact the Patients or other relevant parties in relation to the Prescriptions; that he failed adequately to assess or examine the Patients; that he failed to review the Patients' medical records or arrange for specialist assessment or examination of the Patients in the UK; that he failed to query the quantity or type of medication that he had prescribed; that he failed to ensure that the Prescriptions were safe, clinically appropriate or were being administered in an appropriate setting; that he failed to arrange or conduct any follow up, safety netting, supervision, near patient testing,

monitoring or review of the Patients; and that he failed to provide details of the medications prescribed by him to the Patients' GPs, overseas consultants or specialists.

10. Professor Lingam further admitted that he had failed to keep adequate records; that the Prescriptions were for medications in inappropriately large quantities and that he lacked adequate knowledge of the surrounding circumstances, such as what they were for, their indications, their value, the monitoring arrangements they required, who was collecting them or where they were being sent. He accepted that by completing the Prescriptions he prescribed medicines in an irresponsible and unsafe manner.

11. Professor Lingam also admitted that he acted outside of his level of competence in that he did not have current experience in the relevant specialist fields to which the medications related. He accepted that he had prescribed specialist medications to adults despite being a Paediatrician.

12. Professor Lingam admitted that his issuing of the Prescriptions could have led to patient harm or death.

Summary of the October 2022 Tribunal's decision on Impairment

13. Professor Lingam accepted, and the October 2022 Tribunal determined, that the facts admitted and found proved were sufficiently serious as to amount to misconduct. In reaching its determination on misconduct, the October 2022 Tribunal placed considerable weight on the expert opinion of Dr C who concluded that Professor Lingam's conduct was seriously below the expected standard in that he:

- prescribed hospital-only medications in the community, unsupervised or without review or monitoring, which in Dr C's opinion could have led to patient harm or death;
- prescribed large quantities of hospital-only medication (some outside the BNF recommendation), with no monitoring arrangements agreed;
- prescribed in an irresponsible and unsafe manner, being unfamiliar with some of the medications he was prescribing;
- inappropriately transcribed and issued third party prescriptions at the request of a pharmacy;
- did not have sufficient clinical information from the third-party prescription request form, but prescribed anyway;
- should have contacted the Patients but he did not;
- failed to arrange assessments and examinations of the Patients;
- failed to have adequate knowledge of the third-party Patients' health by not reviewing their medical records or contacting their overseas doctors;

- failed to discuss the Patients with their overseas specialist or family doctor/ GP;
- failed to ensure that the Patients were adequately monitored; and
- failed to ensure that safeguards were in place in respect of any of the Prescriptions.

14. The October 2022 Tribunal highlighted that Professor's Lingam's conduct had taken place over an extended period of time of around 15 months and that his actions had put patients at real risk of serious harm and potentially death. It further highlighted the risks posed by releasing a large quantity of hospital-only medication into an unregulated market. It took the view that Professor Lingam should have exercised greater caution, particularly given the amount and market value of the stock he was requesting.

15. The October 2022 Tribunal took into account that Professor Lingam had received previous advice from both the BMA and the GMC about remote practising and that he had not heeded the advice, *'taking a cavalier attitude towards remote prescribing despite these two earlier warnings'*.

16. The October 2022 Tribunal concluded that Professor Lingam's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor so as to amount to serious misconduct.

17. The October 2022 Tribunal went on to consider whether Professor Lingam's fitness to practise was currently impaired by reason of his misconduct. It took the view that Professor Lingam's misconduct, although serious, was capable of remediation. However, it expressed concern at the lack of steps taken by the Professor to improve his understanding of his misconduct and its impact on public trust in the profession. It considered that Professor Lingam, while accepting that his actions amounted to misconduct, did not appear fully to understand why his actions were wrong. It accepted that Professor Lingam had demonstrated remorse for his actions but concluded that there remained insufficient evidence of insight and targeted remediation and that, as a result, there remained a small risk of repetition of the misconduct

18. The October 2022 Tribunal concluded that a finding of impairment was necessary 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.

The Evidence

19. This remittal Tribunal has taken into account all the evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction. This Tribunal had the benefit of a redacted transcript of the October 2022 hearing, together with the October 2022 Tribunal's determinations on the facts and impairment. This Tribunal also had the High Court's judgement, dated 27 April 2023 (*PSA -v- GMC and Sundara Lingam [2023] EWHC 967 (Admin)*) together with its subsequent Order on Costs dated 13 July 2023.

20. The Tribunal was also provided with a copy of the Interim Orders Tribunal decision dated 23 May 2023.

21. The Tribunal also received the following written evidence from Professor Lingam:

- three written testimonials, including one from his previous appraiser, Mr H;
- a further document regarding his appraisal sent by Mr H dated 14 February 2024;
- a document setting out an Example of Approach to Appraisal Discussions on Risk Management of Patient Safety Following a Complaint or Significant Event and to Linking to Following Year's PDP;
- A scenario situation regarding a doctor prescribing for an unnamed patient without conducting a personal assessment, provided by Mr H

22. Professor Lingam also gave oral evidence to the Tribunal.

Submission on Sanction

The GMC's submissions on sanction

23. On behalf of the GMC, Mr Saul Brody submitted that the appropriate and proportionate sanction is one of suspension.

24. Mr Brody submitted that the extent of Professor Lingam's misconduct is clear and that Professor Lingam adopted a cavalier attitude to remote prescribing notwithstanding advice received from the BMA and his regulator. Mr Brody submitted that there was a real risk that Professor Lingam's actions could have led to serious patient harm or death. Mr Brody reminded the Tribunal that Professor Lingam had acknowledged that he does not know where the medicines went or whether or not there were any adverse outcomes.

25. Mr Brody submitted that there is a very real risk associated with Professor Lingam's approach to prescribing and that Professor Lingam does not fully acknowledge the gravity of his misconduct, nor has he taken responsibility by acknowledging the risks. Mr Brody submitted that there has been an element of minimisation and evasion by Professor Lingam;

that he has tried to shift blame onto Kool Pharma and has failed to accept that his own personal responsibility is significant. Mr Brody submitted that Professor Lingam’s insight may be developing and it is for the Tribunal to determine whether he has fully remediated his misconduct. Mr Brody submitted that Professor Lingam has failed to acknowledge the seriousness of his misconduct and was not in possession of the full picture when he was signing the documents. Mr Brody submitted that there are no special circumstances in this case that would warrant no action being taken.

26. Mr Brody submitted that an order of conditions would not be appropriate given the very serious circumstances of this case. The activity persisted over a long period of time and involved a high number of prescriptions. Professor Lingam was in a position of leadership in his clinic and involved other doctors in this behaviour. Mr Brody submitted that there is no focused evidence of targeted remediation before this Tribunal and further, that Professor Lingam has failed to consider the guidance available at the time. Mr Brody submitted that Professor Lingam’s insight is perhaps still only partial. Mr Brody submitted that Professor Lingam has shown that he is able to abide by conditions and that, therefore, conditions are workable; however, the seriousness of the misconduct causes everything else to fall away.

27. Mr Brody submitted that an order of suspension would act as a deterrent and would send a signal to the doctor, the profession and the public about what is regarded as behaviour unbecoming of a doctor. Mr Brody submitted that the public would not happily accept a position where a flagrant disregard for important levels of accountability and scrutiny in relation to prescribing medication were not met by a sanction which sent out that signal. Mr Brody submitted that a sanction of suspension would help to maintain public confidence in the profession. He said that this is not conduct that is incompatible with continued registration however, Professor Lingam’s remediation is not complete without the full insight that underpins it. He accepted that Professor Lingam had expressed contrition and the risk of repetition was probably “quite low, if not lower”.

28. Mr Brody submitted that the length of any suspension, and whether or not a review is directed, is a matter for the Tribunal following its consideration of Professor Lingam’s remediation and insight

29. Throughout his submissions, Mr Brody reminded the Tribunal of the relevant sections of the Sanctions Guidance (‘SG’).

Professor Lingam’s submissions on sanction

30. Professor Lingam submitted that the appropriate sanction was one of conditions. He said that he had complied with his interim conditions in full. He said that he had stopped

transcribing prescriptions for Kool Pharma as soon as he had been told it was inappropriate which had been before his first Interim Orders Tribunal hearing.

31. Professor Lingam submitted that since the matter had been brought to his attention, he had “followed all of the guidelines 100%”. He had discussed the matter at length with his appraisers and his Responsible Officer. He had acknowledged that he had done wrong and had assured his appraisers that it would not happen again. He said that he had accepted his error early on and that there had been a significant period of time without repetition of the misconduct.

32. Regarding insight, he reminded that Tribunal that the GMC had accepted he had partial insight into his misconduct. He said that he had continued to discuss what had happened with his appraiser, Mr H. He had attended a course with nurses on prescribing but there had been no courses for prescribing for doctors, only guidelines. He had attended online courses through Pulse 365 and had had lots of time to read, follow guidelines and follow online meetings to develop his insight.

33. Professor Lingam said that he would be happy to continue under conditions for life as the conditions represented “the norm” regarding his practice, only prescribing to patients who were in front of him. He said that the previous Tribunal may have been correct in giving him conditions and in his view they were correct. It had had the choice of suspending him but had not done so.

34. Professor Lingam told the Tribunal that a suspension “would be very shameful to me, my family, XXX”. He said that he had given his life to medicine. He had been the first to arrive at work in the morning and the last to leave. He had served and taught; he had contributed to wider initiatives in the profession at an international level. He had helped overseas students to get into British medicine. He had provided work experience for prospective medics and had trained three pharmacists. He read, went to conferences, contributed, saw patients in clinic, and attended monthly group meetings of doctors where they discussed cases. He said that he had tried to repay what he had received from the community. He asked the Tribunal not to suspend his registration but to impose conditions on his practice.

The Tribunal’s Approach

35. The Tribunal reminded itself that it was not the High Court’s position that the sanction imposed by the October 2022 Tribunal was wrong but rather that it may have been wrong as a result of a failure in the original Tribunal’s reasoning, possibly concealing failures of analysis.

36. The Tribunal accepted that it must come to the question of sanction afresh and must determine what, if any, sanction to impose in the light not only of the October 2022 Tribunal’s finding of misconduct and impairment but also in light of anything which has happened in the intervening period. It acknowledged that it must not go behind the October 2022 Tribunal’s findings of fact and decision on impairment, but that the decision as to sanction is one for this Tribunal’s own independent judgment, as of today.

37. The Tribunal reminded itself that it must consider all three limbs of the overarching objective, considering the purpose of sanction as a whole and not give excessive weight to any one limb. The Tribunal must consider not only whether the sanction it imposes is sufficient to protect the public, but it must also explain how any sanction it imposes is an appropriate and proportionate response to the need to promote and maintain public confidence in the profession as a whole and to promote and maintain proper professional standards and conduct for members of the profession. In reaching its decision, the Tribunal has balanced fairness to Professor Lingam with the public interest.

38. The Tribunal took into account the Sanctions Guidance. It considered all relevant parts of the Sanctions Guidance and acknowledged the need to ensure that those sections are properly referenced in its decision. The Tribunal accepted that it should have sound reasons for any decision to depart from the Sanctions Guidance and should clearly articulate those reasons. *General Medical Council v Dr Narayan* [2017] EWHC 2695 (Admin).

39. The Tribunal accepted that sanctions are not imposed to punish or discipline doctors, but they may have a punitive effect and it followed that any sanction imposed must be one that is necessary to meet the overarching Objective. It acknowledged that, because orders by the Tribunal are not primarily punitive, it follows that considerations which would ordinarily weigh in mitigation of punishment in a criminal sphere have less effect on the exercise of this jurisdiction where the essential issue is the need to protect the public and to maintain public confidence in the profession.

40. The Tribunal reminded itself of the need to act proportionately, considering each of the available sanctions in turn, starting with the least restrictive and only moving on if that sanction is insufficient to protect the public and the wider public interest. It acknowledged the concern expressed by His Honour Judge Stephen Davies in the recent case of *Gleeson v Social Work England* [2024] EWHC 3 (Admin) that harsher sanctions may result from following the sanctions guidance “loyally but inflexibly, and without stepping back and looking at all of the circumstances at this stage.”

The Tribunal’s Determination on Sanction

41. The Tribunal first considered the extent to which Professor Lingam’s misconduct engaged each of the three limbs of the overarching objective, namely:
- a. to protect, promote and maintain the health, safety and wellbeing of the public;
 - b. to promote and maintain public confidence in the profession; and
 - c. to promote and maintain proper professional standards and conduct for members of the profession.

The Tribunal considered each of the three limbs in turn:

Public safety

42. The Tribunal was satisfied that Professor Lingam’s actions had put patients at an unwarranted risk of harm, including serious harm or death.

43. The medication which Professor Lingam prescribed was hospital-only medication which, when prescribed in the community without supervision, review or monitoring, could have led to patient harm or death. He prescribed this medication in large quantities (on occasion outside the BNF recommendation) with no safeguards in place. He prescribed in an irresponsible and unsafe manner, being unfamiliar with some of the medications he was prescribing. He inappropriately issued 299 third party prescriptions at the request of the Pharmacy. He issued those prescriptions with insufficient clinical information for safe prescribing. He had inadequate knowledge of the third-party Patients’ health having neither reviewed their medical records nor having discussed the Patients with their treating doctors overseas. He should have contacted the third-party Patients but did not so do. He failed to arrange assessments and examinations of the Patients. The effect of his actions was to release a large quantity of hospital-only medication into an unregulated market.

44. This Tribunal was in no doubt that Professor’s Lingam’s conduct was very serious. It took place over an extended period of time of around 15 months and his actions put Patients at real and unwarranted risk of serious harm and even death.

45. Professor Lingam had received previous advice from both the BMA and the GMC about the risks associated with remote practising and the need to exercise caution. He had not heeded that advice. By his own admission, his actions had been reckless, and in the view of the Tribunal his approach to remote prescribing had been cavalier.

46. When questioned during his oral evidence at the sanction stage regarding the risks of prescribing in this way, Professor Lingam replied that “thankfully” no one had been harmed or died. When put to him that he could not know this, Professor Lingam acknowledged that he could not. The Tribunal considered that by February 2024, Professor Lingam still failed to

acknowledge the real and unwarranted risk of serious harm to Patients arising from his actions.

47. The Tribunal determined that any sanction it imposes must appropriately reflect the seriousness of the Professor's actions, including both the number of patients who were put at unwarranted risk of harm, together with the nature and gravity of that harm.

Public Confidence in the Medical Profession

48. The Tribunal was satisfied that Professor Lingam's conduct had seriously undermined public confidence in the medical profession.

49. Prescribing is a privilege that comes with responsibility. Patients trust doctors with their lives and their health. Safe prescribing is a cornerstone of that trust. The public expects that doctors will prescribe responsibly and safely and with enough information about the patient to prescribe treatment to meet their needs. The Tribunal considered that the public would be appalled to learn that any doctor, not least a doctor of Professor Lingam's experience and standing, had put such a large number of patients at risk of harm and even death by his disregard for basic precepts of safe prescribing.

50. The Tribunal determined that any sanction it imposes must be appropriate and proportionate to the need to restore public confidence in the profession.

Proper professional standards and conduct

51. The Tribunal has found that Professor Lingam breached multiple paragraphs of Good Medical Practice and guidance on Good Practice in Prescribing. At an earlier stage of the proceedings, Professor Lingam's evidence had been that he had looked at the guidance before acting as he did. In his oral evidence to this Tribunal, Professor Lingam accepted that he had not reviewed Good Medical Practice before facilitating the arrangement between Kool Pharma and King Edward VII Hospital and starting to provide private prescriptions within this arrangement. He said that he had previously spoken to the Chairman of the BMA about remote prescribing and had sought her advice but he had not reviewed Good Medical Practice. He accepted that his failure to consult Good Medical Practice was "an error on my part". He said that he had "trusted his instinct instead of looking at the red flags".

52. Good Medical Practice is the benchmark that doctors are expected to meet. The Tribunal determined that Professor Lingam's departures from Good Medical Practice were serious in that they put patients at unwarranted risk of harm and death. It was deeply troubled by the Professor's evidence that he had trusted his instinct rather than reviewing Good Medical Practice and applying it to his practice.

53. The Tribunal determined that any sanction it imposes must properly reflect the need to declare and uphold proper professional standards for members of the medical profession.

Context and Character

54. Having considered how and to what extent Professor Lingam's actions engaged each of the three limbs of the overarching objective, the Tribunal went on to consider the background, character and context of Professor Lingam's misconduct in order to make an assessment of the seriousness of his actions and to identify such aggravating and mitigating factors as may be present.

Relationship with Kool Pharma

55. In his oral evidence to this Tribunal, Professor Lingam set out the history of his relationship with Kool Pharma. He said that the basement of the property in which the Clinic was located was empty. He had been approached by Kool Pharma and had agreed a long-term commercial lease for their dispensing business at a commercial rent. He had declined an offer to become a medical director of the Pharmacy.

56. In due course, Kool Pharma had approached him seeking help to acquire 'hospital only' medication for patients in other countries. Professor Lingam told the Tribunal that he had understood that he was helping overseas patients to obtain European branded medication which was not available in their own countries "because of war, adulteration, and copying".

57. Professor Lingam had an existing relationship with King Edward VII Hospital, which assisted the Clinic with x-rays and investigations, and had introduced Kool Pharma to the pharmacist at King Edward VII Hospital.

58. Professor Lingam said that his role had been to facilitate the relationship between Kool Pharma and King Edward VII Hospital. Kool Pharma had wanted hospital-only medications which could only be bought by a registered hospital. He had facilitated the relationship and transaction.

59. The King Edward VII Hospital pharmacist told Professor Lingam that it could only provide hospital-only medication to Kool Pharmacy if Professor Lingam prescribed it. Professor Lingam told the Tribunal that he had, therefore, prepared a private prescription form on which he "transcribed" information which came to him through Kool Pharma from the patients' treating practitioners overseas. At one stage the CQC had told the hospital

pharmacy that they needed to change the form and Professor Lingam had made the requested amendments.

60. Professor Lingam said that the Clinic had received a standard £40 private prescription fee in respect of each prescription that he had prepared. Professor Lingam said that he had subsequently learned that he had been “taken for a ride” by Kool Pharma, who had made significant sums from the transactions.

61. The Tribunal accepted that, at the outset, Professor Lingam’s motivation had been to try to facilitate a relationship between his tenant, Kool Pharma, and the King Edward VII Hospital. Until Professor Lingam had been told by the hospital pharmacist that it could not provide hospital-only medication to Kool Pharmacy unless Professor Lingam prescribed it, there was no obvious role for Professor Lingam in the arrangement.

62. The Tribunal further accepted that Professor Lingam was someone who had made a point of helping others throughout his career. Throughout his oral evidence, he gave examples of occasions where he had assisted foreign doctors to get into the NHS; where he had trained and offered work experience to others; and where he had made a wider contribution to medical practice. The Tribunal accepted that his desire to assist Kool Pharma was consistent with this.

Humanitarian Assistance

63. The Tribunal also accepted that, at the outset of the arrangement, Professor Lingam had taken, at face value, Kool Pharma’s explanation that the purpose in obtaining hospital-only medication was to help patients in developing countries to obtain European branded medication which was not available in their own countries. This was, again, consistent with Professor Lingam’s desire to be helpful, which the Tribunal considered to be genuine, if naïve.

64. He told the Tribunal, “I was convinced I was helping someone get better; that is what doctors do, even if the patient is not in front of you. If you can help and believe you can help that is what you do. We thought we were doing something very good for people with incurable, difficult conditions. Some of these were very expensive medications which were difficult to get hold of in many countries and Britain is at the forefront.” He said, “Doctors are there to help to find a solution; that is how these transcription errors came.”

65. However, as the arrangement progressed, the Tribunal considered that Professor Lingam became wilfully blind to obvious ‘red flags’ which should have caused him to interrogate the activities of Kool Pharma further. It was alleged and Professor Lingam accepted that he had failed to identify that there were examples where overseas consultants had requested prescriptions for medication for patients who lived in different countries to

themselves. Further, it was clear from the face of the private prescriptions that Professor Lingam had signed that many of them were for patients in developed, first world countries, such as Canada and Australia. When asked about how he was able to reconcile the apparent dissonance between this fact and his proposition that he was motivated to help patients in countries where there was a great need for hospital-only branded medication, Professor Lingam said that he had “slipped up”.

66. He first told the Tribunal that, when he received the documentation from Kool Pharma, the patient’s address was not written on it and he had, therefore, not known which countries they were from; he said that Kool Pharma had added the patient’s address after he had completed the form. Later in his oral evidence, he said that he had looked at where the patients were from, out of curiosity, to see who was getting the medication. He had taken pleasure from seeing prescription requests relating to patients from Sri Lanka and Bangladesh and had understood that he was helping patients in these developing countries.

67. The Tribunal accepted that some of the private prescriptions within the bundle of evidence did not contain the address of the patient, whereas others did. Professor Lingam told the Tribunal that, when he had received the private prescription forms from Kool Pharma, these had been accompanied by a Third Party Prescription Request Form. This was a form which he had originally produced; a blank copy of this form dated January 2005 was within the written evidence before the Tribunal. This form clearly provided for the inclusion of the patient’s name, date of birth and address.

68. The Tribunal was satisfied that it was more likely than not that the Third Party Prescription Request Forms which Professor Lingam had received contained details of the patient’s name and address and that he had wilfully ignored the fact that many of these were from developed countries.

Value of the medication

69. It was also alleged and admitted that Professor Lingam prescribed medications in inappropriately large quantities. These were expensive, complex medications which were intended for hospital-only use. They included medication to treat cancer and HIV. The October 2022 Tribunal found that Professor Lingam “may not have realised the value of the stock that he was requesting”. However, Professor Lingam told this Tribunal that he knew that cancer drugs were expensive. The Tribunal considered that the quantities and value of the medication should again have caused Professor Lingam to question Kool Pharma’s activities. It concluded that he had again wilfully ignored this information.

Financial Motivation

70. The Tribunal asked itself why Professor Lingam had closed his eyes to these obvious red flags. It carefully considered whether it could properly infer a financial motivation from his actions.

71. It took into account the GMC's stated position that it did not consider that Professor Lingam's primary motivation was financial. It also took into account that, at the impairment stage, the October 2022 Tribunal found that Professor Lingam's misconduct had largely been the result of his naivety and misguided, but genuine, belief that his role was to transcribe the Prescriptions as part of humanitarian efforts to assist patients in other countries.

72. Professor Lingam told the Tribunal that the Clinic had received a standard £40 fee for each private prescription. He said that he did not have a financial motivation but that his motivation was humanitarian.

Professor Lingam confirmed in oral evidence that neither Dr B nor Dr K were shareholders in the Clinic and that the Clinic also received the £40 fee from each private prescription that these colleagues completed for Kool Pharma.

73. The Tribunal accepted that MEC had gained no more than the standard £40 fee that any practitioner would have gained for writing a private prescription. However, on his own account, Professor Lingam had obtained the £40 private prescription fee for simply transcribing information provided to him by Kool Pharma onto a private prescription form. He described a process whereby he would return to the Clinic at the end of a day working for the First Tier Tribunal to find a pile of forms from Kool Pharma ready for him to transcribe.

74. It was put to Professor Lingam that he had completed 24 prescriptions on a single date on 18 December 2013, and 20 prescriptions on 30 December 2013. At £40 for each private prescription, this represented income of £960 and £800 on those two dates alone. Professor Lingam attributed this income to "luck" and "good business" arising from his business relationship with Kool Pharma.

75. The Tribunal was satisfied that while it was not his initial or primary motivation, an inference of financial motivation could properly be drawn on the facts. The Tribunal took into account that not all of the prescriptions requested went to patients in developing countries and Professor Lingam understood that this was a money-making transaction for Kool Pharma, whether or not he appreciated the sums involved. Further, the Tribunal found that the sums earned by the Clinic, relative to the work involved in transcribing information from one form to another, were not inconsiderable.

Culpability

76. The Tribunal went on to consider Professor Lingam’s culpability for his actions and the extent to which he accepted responsibility for them.

77. It was Professor Lingam’s position that he had not “prescribed” medication but that he had facilitated a transaction between King Edward VII Hospital and Kool Pharma by “transcribing” the instructions he was given by Kool Pharma onto a blank prescription form. He accepted, however, that none of this could have happened without his involvement.

78. Professor Lingam drew a clear distinction between what he referred to as “third party prescribing” and the “transcribing” that he did for Kool Pharma. Professor Lingam explained that he had facilitated a deal between two businesses. He said that third party prescribing, by contrast, was when someone asked for a prescription on behalf of someone else, usually a relative. He said that the Clinic had “transcribed” and did not “prescribe.” Professor Lingam variously described himself as “a facilitator,” “a conduit,” or “a catalyst”.

79. Professor Lingam told the Tribunal that he accepted that he had not done enough to comply with Good Medical Practice and to make himself aware of the Patients’ health. He said that this was because, “These were not my patients. They were somebody else’s patients.”

80. When reminded by Mr Brody that the investigation had proceeded on the basis that these were his patients and he was responsible for them, Professor Lingam disagreed. He said, “These are patients that belong to some other [doctor] in some other country”. It was a relationship between two pharmacies. He asked, “How can they be my patients?”

81. When Mr Brody again reminded Professor Lingam that the facts which he had accepted and admitted had made plain that he had been prescribing medication, Professor Lingam replied that the Clinic had facilitated Kool Pharma to buy certain medication from King Edward VII Hospital on the understanding that the Hospital knew the medication was going to some other country. He said that the CQC had visited and had said that this was acceptable. If the CQC had said this was “not ok”, Professor Lingam said that the Clinic would have stopped the practice then.

82. Professor Lingam repeated that he had been wrong not to obtain further information about the Patients. He said that he had not checked this information “because they are not my patients”. He accepted that he had not checked that the information he had was sufficient and reliable for safe prescribing. He said, “That is where my gut feeling let me down. I did not see a red flag in front of me.” He accepted that he had done nothing to check the Patients’ details “because the Patient is somewhere else and someone else’s patient”. As a result, he said that he had never tried to see their records. There had been one occasion when he had spoken to a consultant in Ghana; otherwise he had had no contact with the

Patients' treating consultants and GPs. He accepted, with hindsight, that this was an inadequate and unsafe way of carrying out the role.

83. When asked about whether he was responsible for the prescriptions he had signed, Professor Lingam said that he was responsible for all prescriptions he signed. However, when asked if this was true for prescriptions where the process was initiated elsewhere, he said that he was responsible for third party prescriptions but, in relation to the purchase of medication by Kool Pharma from King Edward VII Hospital, his role had been as a facilitator. He said that it had been 'clear from day one' that the Clinic had had no interest in that sale. He said that these were hospital only medications that would only have been bought for the benefit of patients who needed these complex medications; they were for people in hospital under the care of a doctor.

84. He did not accept that the 299 documents which he had admitted to signing amounted to prescribing rather than transcribing. He accepted, that he had produced a third-party prescription request form for use at the Clinic on which there was a declaration, in the following terms:

"Doctors are responsible for all prescriptions they write. Prescriptions are legal documents ."

He said that he accepted that he was legally responsible for the consequences of signing that form. When asked specifically if he had responsibility for the recipients of the medication he prescribed, he said he did not.

85. The Tribunal found that throughout his oral evidence Professor Lingam was unwavering in his assertion that he had not prescribed medication and that the recipients of the medication were not his patients. This was despite his using forms which were clearly marked "Private Prescription"; despite accepting the standard £40 private prescription fee for each prescription he wrote; and despite producing a form for use in third-party prescription requests which clearly set out the responsibility of a doctor for all prescriptions they write.

86. The Tribunal considered that Professor Lingam's evidence demonstrated a fundamental lack of understanding of his responsibility as a prescriber. He had completed and signed 299 Private Prescriptions for which he had received a private prescription fee. He had set out on the face of the Private Prescriptions the medication to be provided and the dose and quantity to be provided. The Tribunal determined that this conduct could not be characterised as anything else other than prescribing.

87. The Tribunal found that there was a significant cognitive dissonance in Professor Lingam’s characterisation of his “transcribing” for Kool Pharma as something other than prescribing, in circumstances where he was aware that the transaction could not go ahead without his involvement in producing a document which was clearly headed “Private Prescription”. The Tribunal was in no doubt that the recipients of the medication he had prescribed were his patients, whether or not they were also the patients of doctors in their home countries. Professor Lingam was legally responsible for the prescriptions he had signed and the consequences that flowed from his signature and from acceptance of legal responsibility.

BMA and GMC Advice

88. The Tribunal further found that Professor Lingam had failed to follow advice on remote prescribing, specifically directed at him, which ought properly to have acted as a shot across the bows.

89. In 2004, he had written to the BMA seeking advice on third party prescribing. He was advised “*you have to put the interest of the patient [first] even if he’s not in front of you*”, “*You need to make a judgement*”. Dr C writes that:

“In my opinion, the letter from the BMA advises caution in the case of third party prescribing with clear concerns about communication with overseas doctors, inadequate clinical information, potential lack of patient communication and that any such prescription is the responsibility of the prescribing doctor who is accountable for his actions.”

90. Professor Lingam stated that, following this, he had met with Professor I, then Chair of the BMA, who told him that remote prescribing was permissible but that caution should be exercised. She had reminded Professor Lingam that doctors are legally responsible for all prescriptions they write.

91. Professor Lingam acknowledged that he was warned by the BMA to be cautious, however, he said that his enquiry and the response had been about third-party prescribing and not about the “transcribing” he had done for Kool Pharma.

92. Further, in 2008, following a concern raised by a professional colleague about an instance of remote prescribing, the GMC had written to Professor Lingam reminding him of the guidance in paragraph 3(b) of the *Good Medical Practice*, which says:

“In providing care you must 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.”

93. The Tribunal considered that Professor Lingam’s failure to heed the advice he had received was an aggravating factor in relation to his misconduct.

Insight

94. The October 2022 Tribunal expressed concern that Professor Lingam appeared to have taken no steps, between the time of the incident and the time of the hearing, to improve his understanding of his misconduct, as well as the impact it would have on public trust in the profession. The October 2022 Tribunal noted that Professor Lingam appeared quite confused when asked specific questions relating to his misconduct and the reasoning for his actions. It considered that while Professor Lingam accepted that his actions amounted to misconduct and that what he did was wrong, the explanations he provided were unclear and he did not appear to fully understand why his actions were wrong.

95. The Tribunal today considered whether Professor Lingam had developed any deeper understanding of his misconduct since October 2022.

96. Professor Lingam was asked by Mr Brody how seriously he considered his misconduct in relation to his shortcomings in obtaining information about the patients who would receive the medication. He said that it was “very serious”. He then continued by saying, “Having said that, I am only a facilitator. If I had prescribed, then yes. I never prescribed wrongly. The guidelines do not talk about facilitating. If the panel will accept, the whole thing is about making the process happen. The problem is that I helped X buy from Y and they could not have done it without me introducing them and helping them source the medication.”

97. When asked why he regarded his misconduct as “very serious”, Professor Lingam said that if it had not been serious, he would not have been in front of the GMC. He had to respect the panel’s findings. He had reflected on the matter, spoken to appraisers and friends, and they had agreed that he had got it wrong.

98. When asked about the potential consequences of his actions, Professor Lingam said that he hoped many of the patients would have benefited. He gave the example of patients with HIV who would have benefited from the medications given. He said, “I thought I was doing good but the professional body said it was wrong.”

99. Professor Lingam was asked by the Tribunal whether he recognised that some of the patients may have been quite desperate in that they were seeking cancer and HIV treatment

from overseas; they may not, therefore, have been aware of the risks of harm associated with the medication they were seeking. Professor Lingam said that this came back again to the question of whether what he had signed were prescriptions or transcriptions. He said that all he had done is to sign the sheet of paper from Kool Pharma. He said, “I did not even consider this person is my patient.” He said that he had checked that the medication being prescribed was appropriate for the condition which the patient was said to have and he had been pleased that the patient was able to get the medication.

100. Professor Lingam said that he had not considered that the patients could be exposed to harm; the treating consultants were prescribing “good medications” for the stated conditions. He said he knew that cancer medications were expensive but all he was thinking was, “This doctor, for example in Sri Lanka, has diagnosed this person with HIV. He has asked for correct medication. All I am thinking is lucky man!”

101. When specifically asked by Mr Brody whether he had developed insight into the risks to patient safety from his conduct, including the risk of fatality, Professor Lingam said that he had been honest with his appraisers from the time of his first Interim Orders hearing. He said that this [conduct] had not formed part of his practice as a consultant; he had only done it in the context of facilitating the process between the two pharmacies. He said that he had talked about it with his appraisers and had learned from it. He had promised never to act this way again.

102. Professor Lingam went on to say, “If I know there were no such patients, I would never have transcribed. We really believed we were doing good.”

103. The Tribunal determined that, as at today, there are enduring deficits in Professor Lingam’s understanding of his misconduct, including a lack of understanding of the fundamental principles of prescribing, a resolute refusal to accept that the recipients of the medication he prescribed were his patients, and a lack of understanding of the unwarranted risk of serious harm and death to the patients for whom he prescribed.

104. Insight starts with a doctor’s understanding they have done wrong and an acceptance of their mistakes. In maintaining that the recipients of the medication he had prescribed were not his patients, the Tribunal considered that Professor Lingam had attempted to distance himself from his wrongdoing and from the unwarranted risk of harm at which he had put those patients. By saying, “If I know there were no such patients, I would never have transcribed,” Professor Lingam was not taking responsibility for all those patients whom he had believed to exist and for whom he prescribed medication in a reckless and cavalier fashion. By suggesting that “thankfully” no one had been harmed or died as a result of his actions, he was speculating in circumstances where he simply did not know whether the risks of patient harm and death identified by Dr C had materialised.

105. The Tribunal accepted that Professor Lingam had admitted the Allegation and had accepted that his actions amounted to misconduct. However, it considered that, in his oral evidence, he had resiled from those admissions. The Tribunal found that Professor Lingam had no real understanding of his wrongdoing. He accepted that what he had done was wrong because his appraisers and friends had agreed he had got it wrong and because his professional body had told him he had got it wrong. He had not accepted, reflected on and taken responsibility for the real and unwarranted risk of serious harm to Patients arising from his actions.

106. The Tribunal accepted that Professor Lingam had acknowledged that he had breached the provisions of Good Medical Practice and that he should have done more to satisfy himself about the appropriateness of the medication he was prescribing for the end patient, but he said that he had done so because they were not his patients. As of February 2024, he was still characterising his role as that of “facilitator” and not protagonist.

107. The Tribunal found that, as at February 2024, Professor Lingam demonstrated limited insight into his misconduct. It took into account the finding of the October 2022 Tribunal that, on the basis of incomplete insight, there remained a small risk of repetition. The Tribunal today determined that that risk still remains.

Expressions of Regret and Apology

108. The Tribunal took into account that Professor Lingam had apologised for his misconduct and had expressed regret. The Tribunal, at the impairment stage, found that he had “expressed deep regret and had apologised for his errors and failures, which he himself admitted did not meet the requirements and standards set out in GMP.”

109. The Tribunal today accepts that Professor Lingam continues to express regret, albeit that this tempered by his limited insight into his misconduct. The Tribunal further accepted the very obvious sense of shame felt by Professor Lingam about the extent to which he has let down himself, his family and his community. However, the Tribunal considered that his sense of shame was directed more at the impact his misconduct had had on his own standing and reputation rather than on the damage to the reputation of the wider profession.

Remediation

110. The Tribunal next considered the extent to which Professor Lingam had remediated his misconduct. It had regard to the Sanctions Guidance, which states at Paragraph 31:

“31 Remediation is where a doctor addresses concerns about their knowledge, skills, conduct or behaviour. Remediation can take a number of forms, including coaching, mentoring, training, and rehabilitation (this list is not exhaustive), and, where fully successful, will make impairment unlikely.”

111. It took into account that, at the impairment stage, the October 2022 Tribunal had taken the view that Professor Lingam’s misconduct, though serious, was capable of remediation. However, the October 2022 Tribunal noted that it had little evidence of specific efforts by him to complete further training to improve his compliance with the GMC and Prescribing guidelines in future and a lack of targeted remediation.

112. The Tribunal considered the documents from Mr H dated 14 February 2024, the first being a summary of appraisal discussions with Professor Lingam. Mr H refers to Professor Lingam’s insight into the risks of prescribing for patients whom he has not personally seen and sets out the risks which Professor Lingam had articulated. In addition, he provided a risk management template to Professor Lingam for use to facilitate reflections and to reaffirm and consolidate areas of good practice.

113. The Tribunal considered that since the date of the last hearing, Professor Lingam had provided no objective evidence of targeted remediation or systematic review of his practice. He had referred to “reading” and “discussions with his appraisers” but he had not provided his August 2023 appraisal documentation following his appraisal with Mr Singh. Professor Lingam said that he had “slipped up” and had expected his previous appraiser, Mr H, to bring them together. The Tribunal considered that Professor Lingam appeared to lack understanding of the need to provide detailed objective written evidence to support statements made about the reflection and learning he had undertaken.

References and Testimonials

114. The Tribunal had regard to the very recent testimonials provided by three colleagues, who were aware of the findings of the previous Tribunal. The Tribunal accepted that these colleagues spoke well of various aspects of Professor Lingam’s work.

Aggravating and Mitigating Factors

115. Having considered the character and context of Professor Lingam’s conduct, the Tribunal turned its attention to identifying whether there were any factors which aggravated or mitigated the seriousness of that conduct. It considered paragraphs 51-55 of the SG in turn and disregarding those which did not apply.

116. The Tribunal has identified the following aggravating factors:

- Professor Lingam’s conduct persisted over an extended period of time and involved a large number of patients;
- The risk of harm to patients was serious, and included the risk of death;
- Professor Lingam is a senior medical practitioner of long standing who has held positions of significant responsibility as a supervisor, teacher and trainer. He has taught prescribing and should have been in no doubt that his actions breached basic and fundamental tenets of safe prescribing;
- There was also an existing financial relationship between Professor Lingam and Kool Pharma which should have led to greater diligence on his part;
- He was wilfully blind to red flags that should have alerted him to the risks to patients from his prescribing practices;
- He involved Doctors B and K in the enterprise, for financial gain for the Clinic;
- He failed to develop his remote prescribing practice following advice from both the BMA in 2004 and GMC in 2008;
- He has failed, over a period of many years, to develop real understanding into what constitutes prescribing and insight into his misconduct.

117. The Tribunal has identified the following mitigating factors:

- Professor Lingam has contributed extensively to the wider medical profession throughout his long career;
- He has had no previous fitness to practise findings against him;
- He fully cooperated with formal enquiries by the MHRA and GMC into his practice;
- He stopped remote prescribing for Kool Pharma as soon as he was made aware through the MHRA that there was an issue;
- He has taken some steps to remediate his practice through discussions with his appraisers and through reading and learning he has undertaken;
- He has complied with interim conditions imposed on his registration for many years, without repetition of his misconduct.

118. The Tribunal reminded itself that mitigating factors carry less weight in regulatory proceedings than in a criminal court, given the Tribunal’s overarching objective to protect the public.

Consideration of the available sanctions

119. The Tribunal went on to consider what sanction, if any, should be imposed and considered the least restrictive sanction first before moving on to consider the other available sanctions in ascending order of severity.

120. In reaching its decision the Tribunal, at all times, bore in mind the relevant paragraphs of the SG and the three limbs of the overarching objective.

No action

121. The Tribunal first considered whether to conclude the case by taking no action. Taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that there were no exceptional circumstances that would make such an outcome appropriate and that taking no action would be insufficient both to protect the public and to protect the public interest.

Conditions

122. The Tribunal next considered whether conditions would be appropriate and proportionate.

123. The Tribunal has borne in mind paragraphs 81-85 of the Sanctions Guidance.

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.

82 Conditions are likely to be workable where:

a the doctor has insight

b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings

c the tribunal is satisfied the doctor will comply with them

d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.

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

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

a no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage

b identifiable areas of their practice are in need of assessment or retraining

c willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date throughout their working life, improving the quality of their work and promoting patient safety (Good medical practice, paragraphs 7–13 on knowledge, skills and performance and paragraphs 22–23 on safety and quality)

d willing to be open and honest with patients if things go wrong (Good medical practice, paragraphs 55 and 61)

e has insight into any health problems, complies with the guidance on health (Good medical practice, paragraphs 28–30) and will abide by conditions relating to their medical condition, treatment and supervision and will not put patients in danger, either directly or indirectly, as a result of conditional registration. Deciding what the conditions should be

85 Conditions should be appropriate, proportionate, workable and measurable.

124. The Tribunal considered that this was a case where there was evidence of shortcomings in a specific area or areas of the doctor's practice, in this case Professor Lingam's remote prescribing practices. It acknowledged the finding at the impairment stage that these shortcomings were remediable.

125. However, the Tribunal took into account that Professor Lingam has failed to remediate his practice fully some 9 years after the conduct in question. Professor Lingam has provided no objective evidence of any targeted courses attended or of his subsequent learning from the same. He has referred to discussions with appraisers but has produced very limited evidence of his own reflection and learning from those appraisal discussions, relevant to the finding of misconduct. He has not produced his August 2023 appraisal documentation.

126. The Tribunal was concerned that, notwithstanding a period of some 9 years working under interim conditions, Professor Lingam has yet to develop full insight into his misconduct, still maintaining as late as February 2024 that he had no responsibility for the patients for whom he issued private prescriptions through Kool Pharma, “because they were not his patients”.

127. The Tribunal accepted that Prof Lingam had ceased his remote prescribing practices when it had first been brought to his attention that they were inappropriate. It further accepted that he had complied with interim conditions for a period of some 9 years without repetition of his misconduct. The Tribunal acknowledged that he had expressed willingness to continue to work under conditions indefinitely if required to do so. The Tribunal accepted that, to that extent, conditions could be drafted that were appropriate, proportionate, workable and measurable and which were sufficient to protect the public.

128. However, the Tribunal considered that the primary purpose of conditions was to allow a practitioner to address shortcomings in their practice through the development of insight and targeted remediation. The evidence suggested that a period of further conditions was unlikely to bring full insight and remediation in circumstances where a lengthy period under interim conditions had already failed to do so.

129. The Tribunal considered that while conditions could be formulated to protect the public, these would be inadequate to promote and maintain public confidence in the profession and to promote and maintain proper professional standards and conduct for members of the profession.

130. The Tribunal has found that Professor Lingam’s conduct seriously undermined public confidence in the medical profession. The public expects that doctors will prescribe responsibly and safely and with enough information about the patient to prescribe treatment to meet their needs. The Tribunal considered that the public would be appalled to learn that any doctor, not least a doctor of Professor Lingam’s experience and standing, had put such a large number of patients at risk of harm and even death by his reckless and cavalier disregard for basic precepts of safe prescribing. The Tribunal determined that conditions would be insufficient to restore public confidence in the profession.

131. The Tribunal further found that conditions would be insufficient to promote and maintain proper professional standards and conduct for members of the profession.

132. The Tribunal has found that Professor Lingam breached multiple paragraphs of Good Medical Practice and guidance on Good Practice in Prescribing. The Tribunal determined that Professor Lingam's departures from Good Medical Practice were serious in that they put patients at unwarranted risk of harm and death. It was deeply troubled by the Professor's evidence that he had trusted his instinct rather than reviewing Good Medical Practice and applying it to his practice.

133. Accordingly the Tribunal determined that conditions were insufficient to meet the overarching objective.

134. In reaching its decision on conditions, the Tribunal took into account the impact which Professor Lingam said any more severe sanction would have on himself, his family and his reputation. However, the Tribunal reminded itself that:

"The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price."

Bolton v The Law Society [1993] EWCA Civ 32.

Suspension

135. The Tribunal next considered whether a period of suspension would be sufficient to meet the overarching objective. The Tribunal considered paragraphs 91-93 and paragraph 97 of the Sanctions Guidance.

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. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not

practise again either for public safety reasons or to protect the reputation of the profession).

93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions

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

a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public

b ...

c ...

d ...

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 ...

136. The Tribunal accepted that a sanction of suspension has a deterrent effect and can be used to send a signal to a doctor, the profession, and the public about what is regarded as behaviour unbecoming a registered doctor. It also acknowledged that suspension is an appropriate response to misconduct which is sufficiently serious that action is required in order to maintain public confidence in the profession, but which falls short of being fundamentally incompatible with continued registration.

137. The Tribunal considered that this was a case which required a signal to be sent to Professor Lingam, the profession and the public in order to restore public confidence in the medical profession. Professor Lingam's remote prescribing practices had put a large number of patients at an unwarranted risk or harm or death. He had failed to take basic steps to satisfy himself that the medication he was prescribing was suitable for the patients for whom he was prescribing it. He had prescribed medication in large quantities with no safeguards in place. He had prescribed in an irresponsible and unsafe manner. He had failed even to recognise that his remote prescribing practices amounted to "prescribing" and had yet to recognised this to be the case. His conduct had persisted over an extended period of time and the Tribunal had found that there had been a degree of financial motivation to his actions, albeit that this was not the primary motivation.

138. The Tribunal accepted that Professor Lingam's primary motivation had been to help patients in developing countries but in so doing he had become wilfully blind to the risks associated with his practices. He had failed to recognise that these individuals, whatever country they were in, were his patients and that, in writing private prescriptions he had accepted responsibility for their treatment.

139. Further, the Tribunal has found that by his actions, Professor Lingam breached multiple paragraphs of Good Medical Practice and guidance on Good Practice in Prescribing. His departures from Good Medical Practice were serious in that they put patients at unwarranted risk of harm and death.

140. The Tribunal further considered that the public would be rightly concerned to learn that Professor Lingam had failed to develop full insight into his misconduct, some 9 years from the time when it was first pointed out to him.

141. Set against this, the Tribunal was satisfied that Professor Lingam has acknowledged fault, albeit that he may not have developed full insight into his misconduct. He has apologised for his actions, and he has accepted that he should have done more to satisfy himself of the patients' identity and health.

142. The Tribunal determined that while his departures from Good Medical Practice were serious and extensive, his remote prescribing practises were not so difficult to remediate that complete removal from the register is required in the public interest. The Tribunal took into account Professor Lingam's significant contribution to the medical profession during his long practice and acknowledged that his misconduct had taken place within a discreet area of his prescribing practice. While it remained troubled by his enduring failure to develop full insight into his misconduct, the Tribunal considered that this was due to cognitive dissonance rather than a deep-seated attitudinal issue and that Professor Lingam's misconduct remained capable of remediation. It took into account that he was capable of demonstrating

compliance with professional guidelines and that he had complied with interim conditions over an extensive period.

143. The Tribunal has found Professor Lingam’s conduct seriously undermined public confidence in the medical profession. It has determined that the restoration of public confidence in the profession and the maintenance of proper professional standards and conduct for members of the profession cannot be satisfied by any lesser sanction than a suspension.

Erasure

144. The Tribunal considered whether Professor Lingam’s misconduct was so serious as to be fundamentally incompatible with continued registration; it considered whether a sanction of erasure was required to restore and maintain public confidence in the profession. It took into account the extent of his departures from Good Medical Practice, his wilful blindness of the risk at which he had placed patients, and his persistent lack of acceptance that these were his patients for whom he had accepted responsibility.

145. The Tribunal considered that while some of the factors within the paragraphs of Sanctions Guidance on erasure were present, others were not. The Tribunal determined that Professor Lingam’s misconduct, whilst serious, was not fundamentally incompatible with continued registration. It had taken place within a discreet area of his practice. Professor Lingam has acknowledged fault, he has apologised for his actions and he has accepted that he should have done more to satisfy himself of the patients’ identity and health. He has taken some steps toward remediation and there has been no repetition of his misconduct for a period of 9 years. His misconduct did not arise in the context of a deep seated attitudinal issue but rather in the context of difficulties recognising the duties that he owed to patients for whom he prescribed medication. The Tribunal determined that the evidence did not suggest that Professor Lingam could not fully remediate his misconduct.

146. The Tribunal had regard to the concern expressed by His Honour Judge Stephen Davies in *Gleeson v Social Work England* [2024] EWHC 3 (Admin) that harsher sanctions may result from following the sanctions guidance “loyally and inflexibly, and without stepping back and looking at all of the circumstances at this stage.” Accordingly, it stepped back and reminded itself of the context, character and seriousness of Professor Lingam’s misconduct and the aggravating and mitigating factors which it had identified.

147. The Tribunal determined that erasure would be a disproportionate sanction. It was satisfied, applying the Sanctions Guidance and having regard to all three limbs of the overarching objecting that a period of suspension was sufficient to restore public confidence and uphold and maintain proper professional standards and conduct.

Length of the suspension

148. The Tribunal carefully considered the appropriate and proportionate length of the suspension. It determined that Professor Lingam’s registration should be suspended for a period of 10 months. The Tribunal was satisfied that a suspension of Professor Lingam’s registration for this period was sufficient to mark the seriousness of his misconduct and to meet the public interest. The Tribunal recognised the significant impact that such a lengthy period of suspension would have on Professor Lingam’s practice, reputation, and standing in professional circles but determined that any lesser period would be insufficient to satisfy the three limbs of the overarching objective.

149. The Tribunal determined that suspension of Professor Lingam’s registration for this period was necessary to send a clear message to Professor Lingam, the profession, and the wider public that his behaviour was wholly unacceptable in a registered medical practitioner.

Review

150. The Tribunal determined to direct a review of Professor Lingam’s case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Professor Lingam to demonstrate how he has remediated and developed full insight into these matters and to provide objective evidence of the same. The reviewing Tribunal may be assisted if Professor Lingam were to provide:

- A copy of his most recent appraisal or a report from his appraiser;
- Written evidence of targeted remediation and reflection;

151. Professor Lingam will also be able to provide any other information that he considers will assist.

Determination on Immediate Order - 18/03/2024

152. Having determined to suspend Professor Lingam’s registration for a period of 10 months the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Professor Lingam’s registration should be subject to an immediate order.

Submissions

153. On behalf of the GMC, Mr Brody submitted that an immediate order is necessary, it being particularly appropriate in cases where there is a risk to patient safety. Mr Brody submitted that there is a level of misconduct in issuing prescriptions which could have led to harm to patients or even a fatality. Mr Brody submitted that having regard to the overarching objective, an immediate order is necessary in these circumstances to protect public confidence in the profession as a whole. Mr Brody submitted that there is not a risk to patient safety but that the type of misconduct requires an immediate order to uphold public confidence in the profession.

154. Professor Lingam asked that an interim order not be imposed as he has some matters that he needs to conclude before the substantive order takes effect.

155. Mr Brody submitted that Professor Lingam should have been aware that suspension was a realistic possibility and should therefore have been prepared for this outcome.

The Tribunal's Determination

156. In reaching its decision, the Tribunal has reminded itself of the findings at the impairment and sanction stage. It reminded itself that it had found a small risk of repetition of the conduct that resulted in its substantive decision of suspension. The Tribunal took into account that were there to be no immediate order, Professor Lingam would be able to practise unrestricted pending any appeal. Accordingly the Tribunal considered that an interim order was necessary for protection of member of the public.

157. Further, the Tribunal found that Professor Lingam, by his actions had seriously undermined public confidence in the profession. The Tribunal considered that it would be inconsistent with that finding not to impose an immediate order of suspension and determined that an immediate order was otherwise in the public interest.

158. The Tribunal had regard to the relevant paragraphs of the SG In particular, paragraphs 174 and 175 which provide:

174 Doctors and their representatives sometimes argue that no immediate order should be made as the doctor needs time to make arrangements for the care of their patients before the substantive order for suspension or erasure takes effect

175 In considering this argument, the tribunal will need to bear in mind that any doctor whose case is considered by a medical practitioners tribunal will have been aware of the date of the hearing for some time and consequently of the risk of an

order being imposed. The doctor will therefore have had time to make arrangements for the care of patients before the hearing, should the need arise.

The Tribunal applied that guidance and determined that the need for an immediate order outweighed Professor Lingam’s interest in concluding any professional arrangements.

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

160. This concludes the case.