

Dates: 5 to 7 March 2018

Medical Practitioner's name: Dr Mark Simon BONAR

GMC reference number: 6067923

Primary medical qualification: MB BCH 2001 National University of Ireland

Type of case

New - Misconduct

Review - Misconduct

Outcome on impairment

Impaired

Impaired

Summary of outcome

Erasure

Immediate order imposed

Tribunal:

Legally Qualified Chair:	Mr Jonathan James
Lay Tribunal Member:	Mr Mick Turner
Medical Tribunal Member:	Dr Jake Evers
Tribunal Clerk:	Ms Esther Morton

Attendance and Representation:

Medical Practitioner:	Not present and not represented
GMC Representative:	Ms Natasha Tahta, Counsel, instructed by GMC Legal

Attendance of Press / Public

The hearing was all heard in public.

Record of Determinations – Medical Practitioners Tribunal

DETERMINATION ON FACTS - 06/03/2018

Background

1. In 2015 The Sunday Times was approached by a professional sportsman who alleged that he had provided UK Anti-Doping ('UKAD') with information about widespread doping in UK sport. This sportsman informed The Sunday Times that he had specifically named Dr Bonar, but that UKAD had chosen not to take any action against him.
2. In October 2015 the Insight team at The Sunday Times began its own investigation looking into the provision by doctors of prescription drugs to enhance the performance of athletes. As part of this investigation, the Insight team recruited the assistance of an athlete ('Patient A'). Patient A posed as a prospective patient, and attended consultations and meetings with Dr Bonar between October 2015 and January 2016. These consultations and meetings were covertly recorded by Patient A and members of the Insight team. On 3 April 2016 The Sunday Times published its account of Patient A's experience with Dr Bonar.
3. The GMC alleges that, at an initial consultation with Patient A in October 2015, Dr Bonar advised Patient A that he could improve his athletic performance by taking testosterone and human growth hormone supplements. Dr Bonar allegedly informed Patient A that he had prescribed these drugs to other athletes, and that Patient A could take these drugs 'off season' to avoid detection.
4. The GMC further alleges that, at a consultation on 3 November 2015, Dr Bonar prescribed a treatment programme to Patient A that was not clinically indicated, and that was issued with the intention of improving Patient A's athletic performance.
5. The GMC also alleges that, at a consultation on 4 January 2016, Dr Bonar confirmed that the treatment plan was focused on improving Patient A's athletic performance, and advised Patient A on how best to avoid detection by athletic drug testing bodies.

The Outcome of Applications Made during the Facts Stage

6. Dr Bonar is neither present nor represented at this hearing; the Tribunal was satisfied that notice of hearing had been properly served on Dr Bonar, and determined to proceed in his absence. The Tribunal's full reasoning is set out in Annex A.
7. On Day 1 of the hearing Ms Natasha Tahta, Counsel, on behalf of the GMC, applied to amend paragraphs 1 and 4 of the Allegation, in accordance with Rule 17(6) of the General Medical Council (Fitness to Practise Rules) 2004, as amended ('the Rules'). Rule 17(6) sets out that:

Record of Determinations – Medical Practitioners Tribunal

‘Where, at any time, it appears to the Medical Practitioners Tribunal that –

- (a) The allegation or the facts upon which it is based and of which the practitioner has been notified under Rule 15 should be amended; and
- (b) The amendment can be made without injustice,

It may, after hearing from the parties, amend the allegation in appropriate terms’

8. Ms Tahta invited the Tribunal to remove the reference to Erythropoietin (‘EPO’) from paragraph 1 of the Allegation and to instead insert it in paragraph 4 of the Allegation, in order to more accurately reflect the chronology of the case. The Tribunal was satisfied that this amendment could be made without injustice to either party, and it was content to amend the Allegation accordingly. This amendment is reflected in the body of the Allegation, as set out below.

The Allegation

9. The Allegation made against Dr Bonar is as follows:

Paragraph One

On 22 October 2015, you consulted with Patient A and you:

- a. advised Patient A that he could improve his athletic performance by taking:
 - i. testosterone supplements;
 - ii. human growth hormone supplements;
 - iii. ~~Erythropoietin (‘EPO’)~~; **Removed in accordance with Rule 17(6)**
- b. advised Patient A that you had prescribed the drugs detailed at 1) a) i-iii ii to other athletes; **Amended in accordance with Rule 17(6)**
- c. advised Patient A that he should take the drugs detailed at 1) a) i-iii ii ‘off season’ to avoid detection by athletic drug testing bodies. **Amended in accordance with Rule 17(6)**

Paragraph Two

On 3 November 2015, you consulted with Patient A and you:

- a. prescribed a treatment programme (‘the Prescription’) which included:
 - i. Nebido (testosterone supplement) 1g;

Record of Determinations – Medical Practitioners Tribunal

- ii. Thyroxine, 100ug daily;
 - iii. Genotropin (growth hormone), 0.6mg once daily by injection;
- b. advised Patient A that if he was worried about detection by athletic drug testing bodies, he could 'play it cautiously for now' and delay the administration of a testosterone injection.

Paragraph Three

The Prescription:

- a. was not clinically-indicated;
- b. was issued with the intention of improving Patient A's athletic performance.

Paragraph Four

On 4 January 2016, you consulted with Patient A and a journalist acting as Patient A's uncle ('Mr B') and you:

- a. confirmed to Mr B that Patient A's:
 - i. blood test results showed no medical problems;
 - ii. treatment plan was focussed on improving his athletic performance, or words to that effect;
- b. advised Patient A and Mr B how to avoid detection by athletic drug testing bodies by advising that Patient A should take his testosterone supplement cycle:
 - i. between races;
 - ii. up to 4 to 6 weeks before the Olympic trials;
- c. purported that you had provided a similar treatment programme to a number of other 'elite' athletes in various sports to improve their athletic performance.
- d. advised that you could improve Patient A's athletic performance by giving him Erythropoietin ('EPO'). **Amended in accordance with Rule 17(6)**

Evidence

10. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

Record of Determinations – Medical Practitioners Tribunal

- Mr B, Editor at The Sunday Times and Investigative Journalist;
- Mr D, Deputy Editor at The Sunday Times and Investigative Journalist.

11. The Tribunal also received an expert report dated 9 May 2017 prepared by Professor E, Honorary Consultant Physician and Emeritus Professor at The Department of Endocrinology at the Oxford Centre for Diabetes, Endocrinology and Metabolism, and Consultant NET Endocrinologist to the Royal Free London.

12. The Tribunal had regard to the documentary evidence provided by the GMC, which included:

- Seven video recordings (obtained covertly by The Sunday Times);
- Time signature sheet detailing the contents of these video recordings;
- Transcripts of three of these consultations;
- Prescriptions completed by Dr Bonar.

13. On behalf of Dr Bonar, the Tribunal received a witness statement dated 21 July 2017, as well as a detailed response to the Allegation provided at the Rule 7 stage.

The Tribunal's Approach

14. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Bonar does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

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

The Tribunal's Overall Determination on the Facts

16. The Tribunal has determined the facts as follows:

Paragraph One

On 22 October 2015, you consulted with Patient A and you:

- a. advised Patient A that he could improve his athletic performance by taking:
 - i. testosterone supplements; **Found proved**
 - ii. human growth hormone supplements; **Found proved**

Record of Determinations – Medical Practitioners Tribunal

17. In relation to paragraphs 1(a)(i) and (ii) of the allegation, the Tribunal had regard to the video recording and transcript of the consultation between Dr Bonar and Patient A on 22 October 2015, as well as Dr Bonar's Rule 7 response.

18. In Dr Bonar's Rule 7 response, he wrote that the aim of his treatment was to treat Patient A for 'debilitating symptoms which were causing him significant psychological and physical morbidity [sic] so that he could compete again on a level playing field', adding that:

'It was never [my intention] to prescribe him super-normal levels of hormones to enhance his athletic performance...'

19. However, the Tribunal noted that in the video recording of the consultation Dr Bonar mentioned that testosterone and growth hormone were very important for strength and stamina, commenting:

'Testosterone and growth hormone are very important for recovery in particular, and obviously strength, endurance, stamina...'

20. Dr Bonar went on to discuss starting Patient A on a 'programme', stating:

'[The programme] will either usually involve a combination of supplements or hormones. The difference testosterone makes is huge in terms of recovery, performance, everything'.

21. Given these comments, the Tribunal was not satisfied that Dr Bonar was advising this programme purely to treat Patient A's debilitating symptoms. Dr Bonar made clear that the programme of testosterone and growth hormone could improve Patient A's performance, strength, endurance, and stamina; accordingly, the Tribunal found paragraphs 1 (a)(i) and (ii) of the allegation proved.

iii. Erythropoietin (EPO); **Removed in accordance with Rule 17(6)**

b. advised Patient A that you had prescribed the drugs detailed at 1) a) i-iii ii to other athletes; **Amended in accordance with Rule 17(6) Found proved**

22. As above, in deciding paragraph 1(b) of the Allegation the Tribunal had regard to Dr Bonar's Rule 7 response, as well as to the transcript and video recording of the consultation.

23. In Dr Bonar's Rule 7 response – whilst he denies prescribing the aforementioned drugs to other athletes - he does not deny making this claim to Patient A, writing:

Record of Determinations – Medical Practitioners Tribunal

'I deeply regret some of the ill-advised grandiose statements made by me on camera such as this statement but there was no substance of truth behind it at all and I was simply 'over-egging' my practice'.

24. In the consultation, Dr Bonar informed Patient A that:

'...I work with lots of professional athletes who do use these treatments but it's how you do it, maybe micro-dose off cycle, off season and things like that'

25. The Tribunal determined that, by informing Patient A that he worked with other professional athletes, and by going on to list how/when he advised other athletes to take the drugs in question, Dr Bonar gave Patient A the impression that he had prescribed the drugs listed at paragraph 1 (a)(i) and (ii) to other athletes. The Tribunal therefore found this paragraph of the Allegation proved.

- c. advised Patient A that he should take the drugs detailed at 1) a) i-iii
ii 'off season' to avoid detection by athletic drug testing bodies.
Amended in accordance with Rule 17(6) Found not proved

26. The Tribunal had regard to Dr Bonar's Rule 7 response, as well as to the transcript and video recording of the consultation. In Dr Bonar's Rule 7 response he writes that this paragraph of the Allegation is a 'complete misunderstanding' of what he said.

27. As set out in paragraph 1(b) of the Allegation above, in the consultation Dr Bonar informed Patient A that he worked with other athletes, and that:

'...it's how you do it, maybe micro-dose off cycle, off season and things like that'

28. Later on in the consultation Patient A mentioned drug testing, and in this context Dr Bonar replied:

'Like I said, there is a strategy you can apply to that. I think the reality is when you're competing at that level you do need all the help you can get'.

29. However, whilst the Tribunal took these comments to imply that Patient A *could* take the drugs in question off season to avoid detection, Dr Bonar did not explicitly state that Patient A *should* do so. Accordingly, given the wording of the Allegation, the Tribunal found this paragraph not proved.

Paragraph Two

On 3 November 2015, you consulted with Patient A and you:

Record of Determinations – Medical Practitioners Tribunal

- a. prescribed a treatment programme ('the Prescription') which included:
 - i. Nebido (testosterone supplement) 1g; **Found proved**
 - ii. Thyroxine, 100ug daily; **Found proved**
 - iii. Genotropin (growth hormone), 0.6mg once daily by injection; **Found proved**

30. The Tribunal had regard to paragraph 4 of the GMC's guidance entitled '*Good practice in prescribing and managing medicines and devices*', which states:

'Prescribing' is used to describe many related activities, including supply of prescription only medicines, prescribing medicines, devices and dressings on the NHS and advising patients on the purchase of over the counter medicines and other remedies. It may also be used to describe written information provided for patients... or advice given...'

31. The Tribunal has adopted this definition of prescribing throughout its determination.

32. With regard to paragraph 2(a) of the Allegation, the Tribunal had regard to Dr Bonar's Rule 7 response, as well as to the video recording and transcript of the consultation on 30 November 2015.

33. In Dr Bonar's Rule 7 response he writes:

'I wouldn't normally treat an asymptomatic patient with low normal or high normal blood hormone levels but as he was symptomatic I offered to optimise his blood levels further on a trial basis to see if his symptoms improved by prescribing a low dose course of Testosterone, Growth Hormone and Thyroxine. The DHEA was prescribed to lower his elevated Cortisol level.'

34. During the consultation Dr Bonar described the treatment programme to Patient A, stating:

'For the thyroid... I will put you on one tablet of 100mcg and see what effect that has. For the cortisol I think I'm doing to put you on something called DHEA... Then for the testosterone my suggestion is that I give you an injection now of something called Nebido....'

Dr Bonar added that he would write a repeat prescription for Patient A.

Record of Determinations – Medical Practitioners Tribunal

35. In addition, the Tribunal was provided with Dr Bonar's prescription for Patient A dated 31 November 2015, which confirms that the following drugs were prescribed:

- Thyroxine 100mcg daily
- DHEA once daily
- GH 0.6mg daily by injection

36. Bearing all of the above in mind, the Tribunal found paragraph 2(a) of the Allegation proved in its entirety.

- b. advised Patient A that if he was worried about detection by athletic drug testing bodies, he could 'play it cautiously for now' and delay the administration of a testosterone injection. **Found not proved**

37. As at paragraph 2(a) of the Allegation, the Tribunal had regard to Dr Bonar's Rule 7 response, as well as to the video recording and transcript of the consultation. In Dr Bonar's Rule 7 response he described this paragraph of the Allegation as a 'misunderstanding', stating:

'I was referring to legitimate Non-RTP athlete protocols which could be followed to ensure [Patient A] would not be in breach [sic] any of [sic] doping body regulations.'

38. During the consultation, in the context of discussing DHEA and drug testing with Patient A, Dr Bonar commented:

'If you want to play it cautiously now and then we can always...'

Patient A responded:

'Yes, definitely, yes'.

39. Dr Bonar then confirmed that they 'won't bother' with the testosterone, adding:

'I would leave it, I would leave it. It's something we can look at down the line if you want to go down that route. That won't make a dramatic difference but in your aerobic ability – '

40. The Tribunal determined that these comments are capable of more than one interpretation in the context of the discussion that was taking place. Dr Bonar could have been advising Patient A to 'play it cautiously' to avoid detection; alternatively, Dr Bonar could have been advising Patient A to 'play it cautiously' generally in terms of administering the drug programme. Bearing this in mind, the Tribunal found this

Record of Determinations – Medical Practitioners Tribunal

paragraph of the Allegation not proved as it could not be satisfied that the former interpretation was more likely than the latter.

Paragraph Three

The Prescription:

- a. was not clinically-indicated; **Found proved**

41. In determining paragraph 3(a) of the Allegation the Tribunal had regard to Dr Bonar's Rule 7 response, as well as the expert report prepared by Professor E dated 9 May 2017.

42. In his expert report, Professor E stated that Patient A's thyroid hormone levels were towards the upper end of the normal range with a borderline-low thyroid-stimulating hormone, adding that:

'...the use of thyroxine in this situation I believe to be contraindicated'.

43. With regard to testosterone, Professor E wrote:

'...it is almost only to be used in this situation with patients with specific symptoms when their total testosterone is below 10nmol/L, and certainly is never above 12 nmol/L.... this does not obtain in this situation'

44. With regard to growth hormone, Professor E wrote:

'There are also specific criteria for the use of growth hormone, which has to be demonstrated by appropriate tests, in the presence of significant symptoms in a patient who has a known pathology of the hypothalamus or pituitary. Again, this does not obtain in this situation'.

45. Professor E concluded that the prescriptions were not clinically indicated or appropriate, adding:

'I believe there is no serious body of evidence in favour of treating patients whose blood test results are within the normal range to bring them to the upper end of the normal range simply in order to enhance performance.'

46. In Dr Bonar's Rule 7 response he wrote that he 'fundamentally disagreed' with Professor E's opinion that the prescription was not clinically indicated, stating:

'I have worked for many years in Andrology and Endocrinology treating many thousands of men with debilitating physiological symptoms (Often related to advancing age) with low normal or insufficient (suboptimal) Testosterone and Growth Hormone levels... Treatment aims to optimise their normal levels of

Record of Determinations – Medical Practitioners Tribunal

these hormones within the normal range, treat symptoms and improve their functional status. This approach to the treatment of age related Endocrine disorders is not common practice in the NHS due to cost implications but is widely practised by doctors working in the private sector of the United Kingdom as well as in the United States and many European Countries.’

47. The Tribunal bore in mind that Patient A was a young man, and was therefore unlikely to be suffering from an age related Endocrine disorder. It bore in mind that Professor E has been an Endocrinology specialist for 39 years and that – although instructed by the GMC - he prepared his report independently with the sole aim of assisting this Tribunal and the Tribunal found it to be fair and balanced. Accordingly, the Tribunal preferred Professor E’s opinion to that of Dr Bonar, and it therefore found this paragraph of the Allegation proved.

b. was issued with the intention of improving Patient A’s athletic performance. **Found proved**

48. In determining paragraph 3(b) of the Allegation the Tribunal had regard to Dr Bonar’s Rule 7 response, as well as to the transcripts and video recordings of the consultations on 3 November 2015 and 4 January 2016.

49. In Dr Bonar’s Rule 7 response he wrote that the aim of his treatment was to treat Patient A ‘symptomatically so that he could compete on a level playing field through optimisation of his hormone and micro-nutrient levels’, adding:

‘It was never to prescribe him super-normal levels of hormones (Consistent with doping) to enhance his athletic performance over and above that of a normal athlete competing on a level playing field’

50. The Tribunal balanced these comments with those made by Dr Bonar during the consultation with Patient A on 3 November 2015, where Dr Bonar told Patient A:

‘...overall you’re fit and healthy but there’s obviously a few things that could be adjusted that would not only probably have you feeling better but probably performing better as well.’

51. During this consultation Patient A told Dr Bonar that:

‘I want to be up there, you know, like elite sort of guys.’

Dr Bonar went on to describe the treatment programme for Patient A, adding that testosterone would ‘make a big difference’.

52. At the consultation on 4 January 2016 a journalist from The Sunday Times (posing as Patient A’s uncle, Mr B), asked Dr Bonar:

Record of Determinations – Medical Practitioners Tribunal

'So the growth hormones are purely to increase his sporting performance'

Dr Bonar answered:

'Yes. It has many other benefits, you know, in terms of ageing and so on...'

53. The conversation moved on to muscle growth, with Dr Bonar telling Mr B and Patient A:

'... Now obviously for somebody like you we wouldn't want you on bulking agent we'd want you down the other end of the spectrum. You would still bulk a little bit with them but less so, but you would notice significant improvements in endurance, stamina and so on.'

54. Later on in the consultation, whilst discussing growth hormone, Mr B asked Dr Bonar:

'It's just to increase his sporting performance.'

Dr Bonar responded:

'Exactly, exactly...'

55. Bearing these comments in mind, the Tribunal was satisfied that the prescription was issued with the intention of improving Patient A's athletic performance. On two occasions in the latter consultation Mr B specifically asked Dr Bonar whether the growth hormones were specifically intended to improve Patient A's sporting performance, and on both occasions Dr Bonar answered in the affirmative. Accordingly, the Tribunal found paragraph 3(b) of the Allegation proved.

Paragraph Four

On 4 January 2016, you consulted with Patient A and a journalist acting as Patient A's uncle ('Mr B') and you:

- a. confirmed to Mr B that Patient A's:
 - i. blood test results showed no medical problems; **Found proved**

56. In determining paragraph 4(a)(i) of the Allegation, the Tribunal had regard to Dr Bonar's Rule 7 response, as well as the transcript and video recording of the consultation.

57. In Dr Bonar's Rule 7 response he does not explicating deny confirming Patient A's blood test showed no medical problems, writing:

Record of Determinations – Medical Practitioners Tribunal

'I was referring to the fact that there were no pathological conditions evident from the blood work. However there were a number of physiological insufficiencies present which would explain the patients [sic] symptoms.'

58. During the consultation Dr Bonar told Mr B:

'[Patient A] doesn't have any medical problems but his growth levels were sub-optimal'

Later on during the consultation Dr Bonar added:

'[Patient A] is healthy. His liver function, kidney function, calcium and protein levels, sugar levels, cholesterol – everything else is perfect'

59. Bearing these comments in mind, the Tribunal found paragraph 4(a)(i) of the Allegation proved.

- ii. treatment plan was focussed on improving his athletic performance, or words to that effect; **Found proved**

60. As above, the Tribunal had regard to Dr Bonar's Rule 7 response as well as to the video recording and transcript of the consultation. In Dr Bonar's Rule 7 response, he wrote that his aim was to treat Patient A symptomatically so he could compete on a 'level playing field', and that it was never his aim to prescribe 'super-normal' levels of hormones consistent with doping.

61. The Tribunal balanced this with the comments made by Dr Bonar during the consultation, where he confirmed to Mr B that the testosterone would lead to:

'...significant improvements in endurance, stamina and so on'.

62. Later on during the consultation, in the context of a discussion about testosterone, Dr Bonar commented:

'... Rapid improvements in all the parameters during that period, and then you would come off cycle for a couple of months to give your body a rest, but the effects would continue'.

63. Dr Bonar was then asked whether he worked with elite athletes; Dr Bonar responded that he did, adding:

'Elite sports, absolutely, but you can't function at that level, you can't compete at that level unless you're, you know, using – if you are a footballer

Record of Determinations – Medical Practitioners Tribunal

in your 30s how are you going to keep up with the 18-year old on the pitch...
the truth of the matter is drugs are in sport'

64. Dr Bonar was asked by Mr B whether it was worthwhile Patient A having the growth hormone for his performance; Dr Bonar replied:

'Absolutely. He's obviously experienced some of the benefits of it already.'

65. The Tribunal took these comments, both individually and taken collectively, as implying to Mr B that Patient A's treatment plan was focussed on improving his athletic performance. Accordingly, the Tribunal found this subparagraph of the Allegation proved.

- b. advised Patient A and Mr B how to avoid detection by athletic drug testing bodies by advising that Patient A should take his testosterone supplement cycle:
 - i. between races; **Found proved**
 - ii. up to 4 to 6 weeks before the Olympic trials; **Found proved**

66. The Tribunal had regard to the transcript and video recording of the consultation, as well as Dr Bonar's Rule 7 response. In Dr Bonar's Rule 7 response he described this paragraph of the Allegation as a 'misunderstanding', stating:

'I was referring to legitimate Non-RTP athlete protocols which could be followed to ensure [Patient A] would not be in breach any of [sic] doping body regulations.'

67. During the consultation, Mr B asked Dr Bonar:

'What about the drug-testing regime, how do you get around that?'

In the discussion that followed, Mr B informed Dr Bonar that Patient A had a race the coming weekend in which he had a test, asking:

'...I was wondering if he should start on this eight-week steroid programme he could start next week if that's possible... after this race'.

Dr Bonar responded:

'I think that would make sense. You want to do it off cycle or between races.'

68. Later on during the same consultation Mr B informed Dr Bonar that Patient A had Olympic trials in April, with drug testing in April. Dr Bonar responded:

Record of Determinations – Medical Practitioners Tribunal

'You will probably want to take a break for at least four to six weeks I would say before it'

69. Given Dr Bonar's responses, the Tribunal found paragraph 4(b) of the Allegation proved in its entirety.

- c. purported that you had provided a similar treatment programme to a number of other 'elite' athletes in various sports to improve their athletic performance. **Found proved**

70. The Tribunal had regard to Dr Bonar's Rule 7 response, as well as the video recording and transcript of the consultation. In Dr Bonar's Rule 7 response he does not deny purporting to have provided similar treatment programmes to other elite athletes, stating:

'I was simply 'over selling' my practice to a businessman who had offered me a lucrative contract working with a number of amateur athletes. It was no more than 'business banter' and there was no substance or truth behind the grandiose statements. In hindsight, they were ill-advised and I regret saying them.'

71. During the consultation itself Dr Bonar informed Mr B that he had worked with:

'... boxers, tennis players, cricketers, what's it called – the UFC I have got a guy who is quite high up there in that as well... I see quite a few of the cyclists... I haven't worked with any runners so you would probably be my first runner, but I've worked with pretty much every other sport.'

72. Based on these comments, the Tribunal was satisfied that Dr Bonar purported to have provided similar treatment programmes to other elite athletes; Dr Bonar denies actually having done so, but that is not the Allegation as put by the GMC. Accordingly, the Tribunal found paragraph 4(c) of the Allegation proved.

- d. advised that you could improve Patient A's athletic performance by giving him Erythropoietin ('EPO'). **Amended in accordance with Rule 17(6) Found proved**

73. The Tribunal had regard to Dr Bonar's Rule 7 comments, as well as the transcript and video recording of the consultation. In Dr Bonar's Rule 7 response, he states that he aimed to treat Patient A for debilitating symptoms so that he could compete on a 'level playing field'.

74. During the consultation, whilst discussing EPO, Dr Bonar stated:

Record of Determinations – Medical Practitioners Tribunal

'The EPO would have the biggest effect. The androgens and the growth hormones are obviously going to help your recovery and strength but the EPO... You just fly along'.

Later on during the consultation Dr Bonar confirmed to Mr B that:

'I think the EPO will have the biggest and most profound effect.'

75. Based on these comments, the Tribunal was satisfied that Dr Bonar advised Mr B that Patient A's athletic performance would be improved with EPO, and it therefore found paragraph 4(d) of the Allegation proved.

DETERMINATION ON IMPAIRMENT - 07/03/2018

1. At the outset of the impairment stage Ms Tahta, on behalf of the GMC, informed the Tribunal that – in addition to considering whether Dr Bonar's fitness to practise is impaired by reason of the Facts found proved at this hearing – it would also be asked to review whether Dr Bonar's fitness to practise remains impaired by reason of the findings of a previous Tribunal. This Tribunal had no prior knowledge of the review matters, or of Dr Bonar's previous fitness to practise history.

Background to Review Matters

2. Dr Bonar was first before a Medical Practitioners Tribunal in July 2016 ('the 2016 Tribunal'). The 2016 Tribunal found proved that, between December 2013 and January 2014, Dr Bonar failed to provide adequate care to Patient C (referred to as 'Patient A' in the original hearing) in that:

- He administered Total Parenteral Nutrition ('TPN') when it was dangerous to do so and without the assistance of a multi-disciplinary team or the supervision of an appropriate consultant;
- He failed to adequately monitor Patient C's electrolytes and bloods;
- On 30 December 2013 he failed to listen to Patient C's chest, despite concerns raised by nursing staff;
- He failed to work with colleagues in the interests of Patient C in that he did not seriously consider concerns raised by two nurses;
- He failed to maintain adequate medical records in that he did not keep Patient C's notes in chronological order, and in that the notes were mixed with records relating to Patient C's sister.

Record of Determinations – Medical Practitioners Tribunal

3. The 2016 Tribunal determined that Dr Bonar's actions represented a serious departure from the expected standards of conduct and behaviour as set out in *Good Medical Practice* ('GMP'). It found that his actions – taken as a whole – increased the risks to Patient C to the point where Dr Bonar's treatment of her was dangerous.

4. The 2016 Tribunal was concerned that Dr Bonar had not demonstrated sufficient understanding of the extent of his failure to communicate with colleagues or to share responsibility for the care of Patient C. Further, it found that he had not demonstrated sufficient efforts to remediate those failings by reflection, study, or changes in his professional practice. Whilst the 2016 Tribunal accepted that the circumstances in which Dr Bonar's failings occurred were so unusual that they would be unlikely to occur again, it could not be confident that he would not make similar mistakes in future should he be confronted with another unusual situation. Accordingly, the 2016 Tribunal found Dr Bonar's fitness to practice to be impaired by reason of misconduct.

5. The 2016 Tribunal determined that a period of conditional registration was the most effective way to resolve issues of patient safety whilst also allowing Dr Bonar to return to practise within a suitably structured framework. The 2016 Tribunal imposed an order of conditions on Dr Bonar's registration for a period of 24 months, and directed a review hearing. It set out that any future Tribunal reviewing his case may be assisted by receiving the following:

- Reports from his workplace supervisor and responsible officer commenting on his progress in the areas specified in his Personal Development Plan, and confirming that he has worked within his competence and no further issues have been identified;
- Evidence of good clinical record keeping;
- Further evidence of reflection;
- Testimonials which may be professional or personal;
- Any other evidence that Dr Bonar feels will assist the Tribunal in reviewing his case.

6. In July 2016 the GMC wrote to Dr Bonar to request contact information, including details of his mentor. The GMC sent a 'chaser' email to Dr Bonar on 22 August 2016. On 23 August 2016 Dr Bonar returned his completed Work Details form, and wrote:

'Although I remain on the GMC register, I am not currently practicing and have retired from clinical practice in the UK. Therefore, I will not be

Record of Determinations – Medical Practitioners Tribunal

participating in any remedial process, revalidation or applying to have my licence to practice restored now or in the foreseeable future.'

7. On 5 September 2016 the GMC emailed Dr Bonar asking for details of his mentor in line with the Conditions on his registration; Dr Bonar responded stating:

'I am not sure why you have sent me this email? I am not currently practicing and have retired from clinical practice in the UK. I therefore do not have a mentor. I will not be participating in any remedial process, revalidation or applying to have my licence to practice restored now or in the foreseeable future.'

8. On 28 September 2016 Dr Bonar submitted a completed Voluntary Erasure form to the GMC.

Submissions

Review Matters

9. Ms Tahta, on behalf of the GMC, submitted that Dr Bonar was found to be impaired in July 2016, with the 2016 Tribunal finding him to have limited and only recently-acquired insight. Ms Tahta reminded this Tribunal that the 2016 Tribunal made clear to Dr Bonar that he should produce a large amount of evidence at any review hearing to show that he was no longer impaired; Ms Tahta submitted that Dr Bonar has failed to adduce any such evidence at today's hearing, and on the contrary, has stated that he has no intention of entering in the remediation process. Accordingly, Ms Tahta submitted that Dr Bonar is entirely without insight, that he has made clear that he does not wish to cooperate in any way and – given this – she invited today's Tribunal to find that Dr Bonar remains impaired by reason of misconduct as found in July 2016.

New Matters

10. In relation to the new matters, Ms Tahta submitted that the prescribing of medication and a treatment programme that was done with the intention of improving a patient's athletic performance brings the entire medical profession into disrepute. She reminded the Tribunal that this prescribing was coupled with the advice Dr Bonar provided to Patient A and Mr B as to how to avoid detection by a drug testing body, and that this all occurred in the context of a patient whose blood test results showed no medical problems. Ms Tahta took the Tribunal to relevant paragraphs of GMP, as well as GMC guidance entitled *Good practice in prescribing and managing medicines and devices* ('the prescribing guidance'), and submitted that the facts as found proved by this Tribunal amount to serious misconduct.

Record of Determinations – Medical Practitioners Tribunal

11. In relation to impairment, Ms Tahta submitted that Dr Bonar has denied the majority of the Allegation and – with regard to the parts of the Allegation he has accepted – has attempted to minimise his role by claiming to have been ‘misunderstood’, or by claiming to have been ‘over-egging’ his business set-up. Ms Tahta submitted that it is clear from Dr Bonar’s Rule 7 response that he has very little insight into his misconduct, adding that Dr Bonar has not provided any evidence to show that he has remediated his misconduct in any way. Ms Tahta submitted that – other than Dr Bonar’s own statement that he no longer wishes to practice in the UK - there is no evidence before the Tribunal to suggest that Dr Bonar would be highly unlikely to repeat his misconduct were he to return to unrestricted practice. Bearing all of the above in mind, Ms Tahta submitted that Dr Bonar’s misconduct is serious and significantly undermines public confidence in the medical profession. She submitted that a finding of impairment was therefore necessary in order to uphold public confidence in the profession, and she therefore invited the Tribunal to find that Dr Bonar’s fitness to practise is currently impaired by reason of his misconduct.

The Tribunal’s Determination on Impairment

12. In reaching its decision the Tribunal bore in mind that its primary responsibility is to the statutory overarching objective, as follows:

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

Review matters

13. The Tribunal bore in mind that, as set out in the case of *Abrahaem v GMC [2008] EWHC 183 (Admin)*, at a review hearing the persuasive burden is on the practitioner to demonstrate that he or she has fully acknowledged, and sufficiently addressed, past impairment.

14. The Tribunal noted that, since Dr Bonar’s last hearing, he had not adduced any evidence to show that he has complied with the Conditions imposed on his registration. Whilst the Tribunal accepts that Dr Bonar is not currently working in the UK, not all of his Conditions are reliant on his having a current UK medical post. For example, Condition 5 on Dr Bonar’s registration states that he must design a Personal Development Plan and provide the GMC with a copy of this plan; the Tribunal has not received any evidence to suggest that Dr Bonar has attempted to design such a plan in order to address his clinical deficiencies. Accordingly, the Tribunal determined that Dr Bonar is, on the face of it, in breach of the Conditions imposed on his registration by the 2016 Tribunal.

Record of Determinations – Medical Practitioners Tribunal

15. The 2016 Tribunal provided guidance as to matters which could be of assistance to any future Tribunal reviewing Dr Bonar's case, over and above evidence of compliance with his Conditions. Today's Tribunal has not been provided with any of the evidence suggested. Not all of this evidence was reliant on Dr Bonar having a current UK medical post; Dr Bonar could have included testimonials or further evidence of reflection, but he has not done so.

16. Finally, this Tribunal has not received any evidence to show that Dr Bonar has developed his insight further, or that he has attempted to remediate in any way. On the contrary, Dr Bonar has sent a number of emails to the GMC indicating that he does not intend to participate in the remediation process. The Tribunal bore in mind that it was clinical matters that brought Dr Bonar before the 2016 Tribunal; not only has Dr Bonar failed to remedy these past clinical deficiencies but – given his apparent lack of engagement with any remediation or personal development, and there being no evidence concerning his clinical practise following the 2016 decision – he may well have suffered further clinical deskilling since his initial hearing.

17. Bearing in mind Dr Bonar's active disengagement from the process, the lack of evidence of any further remediation or insight, and the potential breach of his Conditions, the Tribunal determined that Dr Bonar's fitness to practise remains impaired by reason of his misconduct, as found by the 2016 Tribunal.

New matters

18. The Tribunal reminded itself that, with regard to the new matters under consideration, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgment alone.

19. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amount to misconduct, and – if so – whether the finding of that misconduct could lead to a finding of impairment.

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

Misconduct

21. In determining whether Dr Bonar's actions, as found proved, amount to serious misconduct, the Tribunal had regard to GMP, the prescribing guidance, as well as Professor E's expert report.

22. Paragraph 16(a) of GMP sets out that, in providing clinical care, doctors must:

Record of Determinations – Medical Practitioners Tribunal

'prescribe drugs or treatment... only when you have adequate knowledge of the patient's health and are satisfied that the drugs or treatment serve the patient's needs'

Paragraph 75 of the prescribing guidance makes clear that:

'You must not prescribe or collude in the provision of medicines or treatment with the intention of improperly enhancing an individual's performance in sport...'

The Tribunal was satisfied that a 'patient's needs' in this context refers to their clinical needs, and it has found proved that Dr Bonar's prescription was solely concerned with improving Patient A's athletic performance. The Tribunal determined that, by prescribing Patient A drugs that were not clinically indicated and that were intended to enhance his athlete performance, Dr Bonar was in breach of both GMP and the prescribing guidance.

23. The Tribunal further bore in mind that, not only was Dr Bonar's prescription not clinically indicated, but - according to Professor E - the use of Thyroxine was in fact *contraindicated* given Patient A's current thyroid hormone levels. Prescribing contraindicated medication had the potential to put Patient A at real and serious risk of harm, and goes against the fundamental duties of a doctor, as set out in GMP:

- '[You must] Make the care of your patient your first concern.
- [You must] Provide a good standard of practice and care.'

24. In his report, Professor E concludes that aspects of Dr Bonar's care were 'seriously below' the expected standard in so far as:

'... hormone treatments (thyroxine, growth hormone and testosterone) were being utilised for a patient in whom there was no clear evidence of any hormone deficiency.'

Professor E continued that:

'I believe there is no serious body of evidence in favour of treating patients whose blood test results are within the normal range to bring them to the upper end of the normal range simply in order to enhance performance... I understand that Dr Bonar, from the interviews I have assessed, practices a type of medicine which I believe is seriously outwith current medical standards, insofar as he prescribes hormone treatments to a healthy patient...'

25. In addition to the prescription itself, the Tribunal bore in mind that Dr Bonar actively advised Patient A and Mr B on how best to avoid detection. The Tribunal determined that, in so doing, Dr Bonar failed to act with honesty and integrity – both of which are fundamental tenets of the medical profession. The Tribunal noted

Record of Determinations – Medical Practitioners Tribunal

that Dr Bonar's behaviour escalated during the course of the consultations with Patient A; whilst he was more cautious during the first consultation, by the third consultation he was actively discussing taking money in order to improve the performance of a group of athletes. Not only was this behaviour in breach of the duties set out in GMP, but it brings the reputation of the entire profession into disrepute.

26. Lastly, the Tribunal noted that Dr Bonar himself asserted that he was untruthful during his consultations with Patient A and Mr B. In response to the Allegation (subsequently found proved by this Tribunal) that Dr Bonar purported that he had provided a similar treatment programme to a number of elite athletes in order to improve their performance, Dr Bonar wrote:

'I was simply 'over selling' my practice to a businessman who had offered me a lucrative contract working with a number of amateur athletes. It was no more than 'business banter' and there was no substance or truth behind the grandiose statements.'

Not only did Dr Bonar claim to have worked with a number of elite athletes, but he also named an alleged patient who was in the public eye. The Tribunal determined that Dr Bonar's false claims were potentially damaging to Patient A, as well as to the reputation of the profession as a whole. It had particular regard to paragraphs 66 and 68 of GMP, which set out that:

'You must always be honest about your experience, qualifications and current role.'

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

If Dr Bonar is to be believed, he was untruthful with Patient A about his experience and current role and intended to mislead him in these respects. The Tribunal found that this is neither honest nor trustworthy.

27. The Tribunal determined that, both individually and cumulatively, Dr Bonar's conduct (which includes dishonesty during the course of a consultation, non-clinically indicated prescribing, contraindicated prescribing, prescribing with the aim of improving a patient's athletes performance, and advising an athlete on how to actively avoid detection) amount to misconduct that is serious. The Tribunal had regard to paragraph 65 of GMP, which states:

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

The Tribunal was satisfied that, through his actions, Dr Bonar failed to justify Patient A's trust in him, and the public's trust in the profession.

Record of Determinations – Medical Practitioners Tribunal

Impairment

28. Having found that Dr Bonar's actions amounted to misconduct that was serious, the Tribunal next considered whether Dr Bonar's fitness to practise is currently impaired by reason of that misconduct. In so doing, it had regard to Dr Bonar's Rule 7 response. The Tribunal was concerned that, in this response, Dr Bonar lacks any insight into his misconduct, or the damage that his actions could have had on Patient A, as well as on the reputation of the profession as a whole.

29. Despite Professor E making clear that Dr Bonar's prescription was not clinically indicated and was outside of accepted medical practice, Dr Bonar maintains and defends his view that his prescription was clinically indicated, and was within accepted practice. In his Rule 7 response Dr Bonar dismisses Professor E, and claims to have been unfairly treated and misunderstood. There is no recognition that his prescription was not clinically indicated, with the thyroxine being contraindicated.

30. Further, whilst Dr Bonar puts forward dishonesty as a defence for his claims that he had treated other elite athletes, he shows no insight into this dishonesty or the impact it could have had on Patient A, as well as the reputation of the profession as a whole. Dr Bonar describes these comments as 'ill-advised', stating: 'I regret saying them', but he does not apologise to Patient A or Mr B, nor recognise the harm they could have done. Dr Bonar claims to have been using 'business banter' during the consultation, but he does not show any insight into the fact that he was not a salesman, but was instead a doctor acting in a professional capacity in a consultation with a patient.

31. Dr Bonar has made no admissions at this hearing, has shown no insight into his behaviour, has actively challenged the opinion of an expert endocrinologist (whilst providing no evidence to back up his claims that he was acting within normal accepted practice), and has informed the GMC that he does not intend to engage in remediation. Bearing this in mind, the Tribunal could not be confident that Dr Bonar would not repeat his misconduct in future. Accordingly, it determined that Dr Bonar's fitness to practice is currently impaired by reason of his misconduct.

DETERMINATION ON SANCTION - 07/03/2018

1. Having determined that Dr Bonar's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide the appropriate sanction, if any, to impose in this case.

Submissions

2. Ms Tahta, on behalf of the GMC, submitted that - given the nature of Dr Bonar's misconduct - it would be wholly inappropriate to take no action, and that there were no exceptional circumstances that would warrant the Tribunal doing so.

Record of Determinations – Medical Practitioners Tribunal

Ms Tahta submitted that Conditions would fail to protect the public from a patient safety point of view, and in any event, that Dr Bonar has indicated that he has no intention of complying with Conditions, and has failed to comply with the existing Conditions imposed on his registration two years ago. She therefore submitted that Conditions were also wholly inappropriate.

3. Turning to Suspension, Ms Tahta submitted that Dr Bonar's misconduct is extremely serious, and is the type of misconduct that a member of the public can understand. She submitted that the public hear about athletes taking drugs and it is a matter of great public concern when a member of the medical profession allows this to happen. Ms Tahta submitted that, other than admitting that he lied (which was not a charge brought by the GMC), Dr Bonar has not acknowledged fault in any way: he has not acknowledged that by providing drugs to a healthy man he was acting outwith normal medical practice; he has not acknowledged that he ought not to have given advice as to how best to avoid drug detection; and he has not acknowledged that the Thyroxine was contraindicated. Given this, Ms Tahta submitted that the Tribunal cannot be satisfied that Dr Bonar's misconduct will not be repeated.

4. Ms Tahta reminded the Tribunal that the 2016 Tribunal found clinical misconduct, and she submitted that there is no evidence before it today to suggest that Dr Bonar has remediated any of the original clinical concerns in his case. As such, she submitted that there is an ongoing risk to patient safety. Ms Tahta submitted that Dr Bonar has shown a blatant disregard for GMP and for his regulator, and that he has demonstrated a persistent lack of insight into the seriousness of his actions and the effect of his actions on public confidence in the medical profession. Given this, Ms Tahta submitted that Dr Bonar's registration is incompatible with continued medical registration, and that an order of Suspension would therefore be inappropriate. Accordingly, she submitted that the only appropriate sanction in Dr Bonar's case is one of Erasure.

The Tribunal's Determination on Sanction

5. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgment. In reaching its decision the Tribunal has taken account of the Sanctions Guidance ('SG'), and has borne in mind that the purpose of a sanction is not to be punitive, although a sanction may have a punitive effect. The Tribunal has applied the principle of proportionality, weighing Dr Bonar's interests with the wider public interest.

No action

6. The Tribunal first considered whether to conclude Dr Bonar's case by taking no action. It considered, in respect of both the new and review matters, that there were no exceptional or extraordinary circumstances that would warrant it taking no action, and that doing so would be wholly disproportionate given the serious misconduct found at both the 2016 hearing, and at this hearing.

Record of Determinations – Medical Practitioners Tribunal

Conditions

7. The Tribunal next considered whether an order of Conditions would be appropriate. In so doing, it bore in mind that any Conditions imposed would need to be workable and measurable.

8. The Tribunal first considered whether Conditions would be appropriate in addressing the review matters in Dr Bonar's case, which include clinical deficiencies and a failure to work with colleagues. The 2016 Tribunal dealt with these concerns by way of an order of Conditions, however this Tribunal has found that Dr Bonar has breached those Conditions. In addition, Dr Bonar has indicated in correspondence to the GMC that he has no intention of complying with any remediation going forward, writing in August 2016 that:

'...I will not be participating in any remedial process [or] revalidation...'

Given this, the Tribunal could not be satisfied that Dr Bonar would comply with any further Conditions imposed on his registration today, and it therefore determined that a further order of Conditions would be neither workable nor appropriate in respect of the review matters.

9. The Tribunal next considered whether Conditions would be appropriate in addressing the new matters in Dr Bonar's case. In doing so, it had regard to paragraph 82 of the SG, which sets out that Conditions are likely to be workable in cases where:

- The doctor has insight;
- A period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings;
- The Tribunal is satisfied that the doctor will comply with them.

The Tribunal also had regard to paragraph 84 of the SG, which sets out that Conditions may be appropriate in cases where:

- There is no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage;
- The doctor is 'willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date...'

10. The Tribunal has already found that Dr Bonar lacks insight into his misconduct, and Dr Bonar has informed the GMC that he will not be participating in any remediation. As set out above, Dr Bonar has already failed to comply with the

Record of Determinations – Medical Practitioners Tribunal

existing Conditions on his registration, and has indicated an unwillingness to comply with the GMC and this process going forward. Further, the Tribunal was concerned that, given Dr Bonar's deliberate and reckless disregard for the basic tenets of GMP, any future order of Conditions would be unworkable. At the time of Dr Bonar's misconduct he was already bound by GMP and the prescribing guidance, but he still acted outside of this guidance and in breach of GMP. Bearing all of this in mind, the Tribunal determined that Conditions would neither be workable nor proportionate, nor would they be in the public interest.

Suspension

11. The Tribunal next considered whether an order of Suspension would be appropriate and proportionate in Dr Bonar's case.

12. Turning first to the review matters, the Tribunal had regard to paragraph 93 of the SG, which sets out that:

'Suspension may be appropriate... where there may have been acknowledgment of fault and where the Tribunal is satisfied that the behaviour or incident is unlikely to be repeated'

... as well as to paragraph 97(e) and (g) of the SG, which sets out that Suspension may be appropriate in cases where:

- There is no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage;
- The Tribunal is satisfied that the doctor has insight.

13. Since his initial hearing, Dr Bonar has shown no evidence of further insight, and instead has indicated to the GMC that he will not be participating in remediation. The Tribunal took this as evidence to demonstrate that remediation *is* unlikely to be successful, and given this, it could not be satisfied that he would not repeat his misconduct in future.

14. Dr Bonar has not submitted any evidence to this Tribunal to demonstrate that he has further reflected on his initial misconduct or acknowledged his clinical deficiencies; bearing this in mind, the Tribunal determined that an order of Suspension would not ensure patient safety, nor would it serve to uphold public confidence in the medical profession. Accordingly, the Tribunal determined that Suspension would not be sufficient to address the review matters in Dr Bonar's case.

15. Turning next to the new misconduct matters, the Tribunal again had regard to the SG. As above, it found that Dr Bonar has shown no insight into his misconduct, and in his Rule 7 response maintained that his prescription was clinically indicated and within the framework of acceptable medical practice. Dr Bonar has

Record of Determinations – Medical Practitioners Tribunal

indicated that he does not intend to participate in remediation, and he has yet to acknowledge fault or demonstrate an understanding of how his actions impact upon the medical profession as a whole. Given this, the Tribunal was not satisfied that remediation would be successful, or that the misconduct was unlikely to be repeated.

16. The Tribunal also had regard to paragraph 97(a) of the SG, which sets out that Suspension may be appropriate in cases where there has been a serious breach of GMP, but where the doctor's misconduct is not fundamentally incompatible with their continued registration. Dr Bonar's actions do constitute a serious breach of GMP; the use of doping in sport is expressly forbidden and a medical practitioner should not participate in it. Doing so brings the entire reputation of the medical profession into disrepute, and any medical practitioner who participates in doping merits a severe sanction. Dr Bonar not only prescribed drugs solely to enhance Patient A's athletic performance, he also advised Patient A on how best to avoid detection. Dr Bonar's actions undermined the trust placed in him as a medical practitioner and could have caused real harm to Patient A – despite this, Dr Bonar has yet to show any recognition of, or insight into, the seriousness of his actions.

17. Bearing all of the above in mind, the Tribunal determined that Dr Bonar's conduct is fundamentally incompatible with continued registration. The Tribunal therefore determined that an order of Suspension would neither be appropriate, proportionate, nor in the wider public interest.

Erasure

18. The Tribunal therefore determined that, in respect of both the new and the review matters, Erasure was the only sufficient sanction in Dr Bonar's case. In reaching this decision, it had regard to paragraph 108 of the SG, which sets out that erasure may be appropriate:

'... if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession...

The Conditions imposed by the 2016 Tribunal were designed as safeguards to protect the public, but Dr Bonar made clear in correspondence with the GMC that he did not intend to participate in any remediation, or with the GMC process.

19. The Tribunal next had regard had to paragraph 109 of the SG, which sets out that the following factors indicate that Erasure may be appropriate:

- A particularly serious departure from GMP;
- A deliberate or reckless disregard for the principles set out in GMP;
- Doing serious harm to others;

Record of Determinations – Medical Practitioners Tribunal

- Abuse of position/trust;
- Putting their own interests before those of their patients;
- Persistent lack of insight into the seriousness of their actions or the consequences.

20. The Tribunal has already found that Dr Bonar's misconduct constituted a serious departure from GMP. His prescribing medication in direct contradiction of the prescribing guidance amounts to a deliberate and reckless disregard for the principles of GMP and patient safety. By prescribing a drug which was contraindicated, Dr Bonar could have caused Patient A serious harm, and prescribing medication which was not clinically indicated was an abuse of the trust placed in him by his patient and by the public.

21. The Sunday Times investigation produced evidence which even Dr Bonar accepted showed him selling his practice to a businessman who had offered him a lucrative contact. In this, he put his own interests above those of his patient with whom he was in consultation at the time.

22. Finally, Dr Bonar has shown a persistent lack of insight into the seriousness of his actions and their consequences, denying and diminishing them throughout. This is true both of the review and the new matters.

23. Bearing all of the above in mind, the Tribunal determined that Erasure is the necessary, appropriate and proportionate sanction in Dr Bonar's case.

DETERMINATION ON IMMEDIATE ORDER - 07/03/2018

1. Having determined that Dr Bonar be erased from the Medical register, the Tribunal next considered whether Dr Bonar's registration should be subject to an immediate order of Suspension.

2. Ms Tahta submitted that an immediate order of Suspension was necessary, both to protect the public, and otherwise in the public interest. She reminded the Tribunal of its findings that Dr Bonar poses a risk to patient safety, that he has failed to remediate, has not complied with his Conditions, and that – bearing these in mind – it cannot be satisfied that he will not repeat his misconduct.

3. In reaching its decision the Tribunal exercised its own judgement, and has taken account of the principle of proportionality. The Tribunal bore in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public, is in the public interest, or is in the best interests of the practitioner.

Record of Determinations – Medical Practitioners Tribunal

4. The Tribunal determined that, given the seriousness of its findings, it was both appropriate and proportionate to impose an immediate order of Suspension on Dr Bonar's registration. The Tribunal determined that an immediate order of Suspension serves to protect the public, and sends a message to the public and the profession about standards of conduct befitting a medical practitioner, and to uphold public confidence in the medical profession.

5. This means that Dr Bonar's registration will be suspended from when written notice of this decision is deemed to have been served upon him. The substantive direction for Erasure, as already announced, will take effect 28 days from when notice is deemed to have been served, unless an appeal is made in the interim. If an appeal is made, the immediate order of Suspension will remain in force until the appeal has concluded.

6. The order of Conditions imposed by the 2016 Tribunal is hereby revoked.

7. That concludes Dr Bonar's case.

Confirmed

Date 7 March 2018

Mr Jonathan James, Chair

Record of Determinations – Medical Practitioners Tribunal

ANNEX A – 5 March 2018

Service and Proceeding in Absence

1. Dr Bonar is neither present nor represented at this hearing. The Tribunal had regard to the service bundle, which includes email correspondence between the GMC, the MPTS, and Dr Bonar. On 23 June 2017 the GMC emailed Dr Bonar the Rule 7 letter and supporting bundle of documents for this hearing. On 17 November 2017 the MPTS emailed Dr Bonar a letter inviting him to participate in the pre-hearing Case Management Procedure; on 23 November 2017 Dr Bonar responded to the MPTS via email, stating:

'I wish to notify the GMC and the MPTS that I will not be participating in any further legal process with the organisation. I have issued a statement of the facts and have no further submissions to make.

I have retired from clinical practice and am living abroad. My registration with the GMC is of no value to me given that I do not currently have a medical licence to practice and do not intend to return to the United Kingdom...'

2. On 28 November 2017 Mr F of GMC Legal emailed Dr Bonar informing him that, given he is currently subject to ongoing Fitness to Practise proceedings, it was not possible to voluntarily erase his name from the Medical Register.

3. On 29 December 2017 Mr F emailed Dr Bonar the final copy of the Allegation to be considered at this hearing; on 30 December 2017 Dr Bonar replied, thanking Mr F for the update.

4. On 25 January 2018 the MPTS sent notice of today's hearing to Dr Bonar's registered email address. This notice set out that:

'If you do not attend, and are not represented, the Tribunal can hear and make a decision about your case in your absence, under Rule 31 of the GMC (Fitness to Practise) Rules. If your fitness to practise is found to be impaired a sanction could be imposed on your registration in your absence...'

5. On 2 February 2018 Mr F emailed Dr Bonar further enclosures in advance of today's hearing.

6. Ms Tahta, on behalf of the GMC, submitted that Dr Bonar's correspondence shows that he is aware of the date of today's hearing, and has made it entirely clear that he has left the country and does not wish to participate in any way. She reminded the Tribunal that Dr Bonar has not requested any adjournment of this hearing, and invited the Tribunal to find that notice has been served, and to proceed in Dr Bonar's absence.

Record of Determinations – Medical Practitioners Tribunal

7. The Tribunal was satisfied that the GMC and the MPTS have properly served notice of this hearing upon Dr Bonar in accordance with Rule 40 of the General Medical Council (Fitness to Practise) Rules 2004, as amended ('the Rules').

8. With regard to proceeding in Dr Bonar's absence, the Tribunal had regard to Dr Bonar's comments of 23 November 2017. It determined that, from these comments, Dr Bonar is aware of today's hearing, and appears to have voluntarily absented himself. It noted that Dr Bonar has provided written comments in the form of his Rule 7 response, and it will have due regard to these. The Tribunal bore in mind that the public interest demands that matters be dealt with expeditiously, and – bearing all of the above in mind – the Tribunal determined that it was both appropriate and proportionate to proceed with the hearing in Dr Bonar's absence.