Dates: 06/01/2020 - 10/01/2020

Medical Practitioner’s name: Dr Jeny SELVARAJAH

GMC reference number: 7497089

Primary medical qualification: MB BS 2015 Kings College London

Type of case New - Misconduct

Outcome on impairment Impaired

Summary of outcome Suspension, 12 months.

Tribunal:

<table>
<thead>
<tr>
<th>Role</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legally Qualified Chair</td>
<td>Ms Margaret Obi</td>
</tr>
<tr>
<td>Lay Tribunal Member:</td>
<td>Mr John Kelly</td>
</tr>
<tr>
<td>Medical Tribunal Member:</td>
<td>Dr Ann Smallridge</td>
</tr>
<tr>
<td>Tribunal Clerk:</td>
<td>Ms Angela Carney</td>
</tr>
</tbody>
</table>

Attendance and Representation:

<table>
<thead>
<tr>
<th>Role</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Practitioner:</td>
<td>Present and represented</td>
</tr>
<tr>
<td>Medical Practitioner’s Representative:</td>
<td>Mr Kevin McCartney, Counsel, instructed by Rahman Ravelli Solicitors</td>
</tr>
<tr>
<td>GMC Representative:</td>
<td>Mr Alan Taylor, Counsel</td>
</tr>
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</table>

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 08/01/2020

Facts

Outcome of Applications Made during the Facts Stage

1. Mr McCartney, on behalf of Dr Selvarajah made an application, pursuant to Rule 41XXX of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 (the Rules), that parts of the hearing be heard in private as some matters XXX are confidential. The Tribunal granted the application. A public version of the determination will be provided with the confidential matters redacted.

2. Mr Taylor made an application, pursuant to Rule 17(6) of the Rules, to amend sub-paragraph 7ci and to withdraw sub-paragraph 7cii, as follows):

'7. On or around 9 April 2018, you submitted a timesheet dated 8 April 2018 ("Timesheet 3") to RM Medics for work completed at the Hospital, and you:

   c. received payment for the shift and you failed to:

      i. clarify with RM Medics and/or the Hospital you had not worked the hours indicated in Timesheet 3;

      ii. repay the money received for the shift on 8 April 2018."

3. Mr McCartney made no objection to the proposed amendments. The Tribunal determined that the amendments more accurately reflected the GMC’s case and that no injustice would be caused by granting the application. Therefore, sub-paragraph 7ci was amended and sub-paragraph 7cii was withdrawn.

The Allegation and the Admitted Facts

4. At the outset of these proceedings, through her counsel, Mr McCartney, Dr Selvarajah made admissions to all of the paragraphs and sub-paragraphs of the Allegation, as set out below, in accordance with Rule 17(2)(d) of the General Medical
Record of Determinations –
Medical Practitioners Tribunal

Council (GMC) (Fitness to Practise) Rules 2004, as amended (‘the Rules’). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

1. On or around 26 March 2018, you submitted a timesheet dated 27 February 2018 (‘Timesheet 1’) to RM Medics for work completed at West Middlesex University Hospital (‘the Hospital’), and you:

   a. indicated you had worked for 8.5 hours;
      **Admitted and found proved**
   
   b. signed Timesheet 1 yourself in the name of ‘Abbas’ to authorise the hours worked;
      **Admitted and found proved**
   
   c. received payment for the shift and failed to clarify with RM Medics and/or the Hospital that you had not worked the hours indicated in Timesheet 1.
      **Admitted and found proved**

2. You knew you:

   a. had not worked the hours indicated on Timesheet 1;
      **Admitted and found proved**
   
   b. did not have the authority to sign off Timesheet 1;
      **Admitted and found proved**
   
   c. had forged the signature on Timesheet 1;
      **Admitted and found proved**
   
   d. were not entitled to receive payment for the shift on 27 February 2018.
      **Admitted and found proved**

3. Your actions described at paragraph 1 were dishonest by reason of paragraph 2.
   **Admitted and found proved**

4. On or around 19 March 2018, you submitted a timesheet dated 14 March 2018 (‘Timesheet 2’) to RM Medics for work completed at the Hospital, and you:

   a. indicated you had worked 7.5 hours;
      **Admitted and found proved**
b. signed Timesheet 2 yourself to authorise the hours worked; 
**Admitted and found proved**

c. received payment for the shift and failed to:
   i. clarify with RM Medics and/or the Hospital that you had not worked the hours indicated in Timesheet 2; 
   **Admitted and found proved**

   ii. repay the money received for the shift on 14 March 2018 until 18 November 2019. 
   **Admitted and found proved**

5. You knew you:

   a. had not worked the hours indicated on Timesheet 2; 
   **Admitted and found proved**

   b. did not have the authority to sign off Timesheet 2; 
   **Admitted and found proved**

   c. had forged the signature on Timesheet 2; 
   **Admitted and found proved**

   d. were not entitled to receive payment for the shift on 14 March 2018. 
   **Admitted and found proved**

6. Your actions described at paragraph 4 were dishonest by reason of paragraph 5. 
**Admitted and found proved**

7. On or around 9 April 2018, you submitted a timesheet dated 8 April 2018 ("Timesheet 3") to RM Medics for work completed at the Hospital, and you:

   a. indicated you had worked for 10 hours; 
   **Admitted and found proved**

   b. signed Timesheet 3 yourself in the name of ‘Ahmed’ to authorise the hours worked; 
   **Admitted and found proved**

   c. received payment for the shift and you failed to: 

MPT: Dr SELVARAJAH
Record of Determinations –
Medical Practitioners Tribunal

i. clarify with RM Medics and/or the Hospital you had not worked the hours indicated in Timesheet 3;
Admitted and found proved (as amended)

ii. repay the money received for the shift on 8 April 2018'.
Withdrawn by the GMC

8. You knew you:

a. had not worked the hours indicated on Timesheet 3;
Admitted and found proved

b. did not have the authority to sign off Timesheet 3;
Admitted and found proved

c. had forged the signature on Timesheet 3;
Admitted and found proved

d. were not entitled to receive payment for the whole of the shift on 8 April 2018.
Admitted and found proved

9. Your actions described at paragraph 7 were dishonest by reason of paragraph 8.
Admitted and found proved

10. On 10 April 2018, in a WhatsApp message to Mr A, you stated that 'Dr Ahmed', a 'locum registrar', had signed you off early on 8 April 2018.
Admitted and found proved

11. You knew that there was no locum registrar called Dr Ahmed who had signed you off early on that date.
Admitted and found proved

12. Your actions described at paragraph 10 were dishonest by reason of paragraph 11.
Admitted and found proved

13. On 13 April 2018, in a telephone conversation with Dr B, you stated that on 8 April 2018 you had worked in the:

a. Emergency Department from 08:30 until around 14:00;
Admitted and found proved
b. Acute Admissions Unit from around 14:00 until 16:30.
Admitted and found proved

14. You knew you had not worked in the Emergency Department and / or Acute Admissions Unit as set out at paragraph 13.
Admitted and found proved

15. Your actions described at paragraph 13 were dishonest by reason of paragraph 14.
Admitted and found proved

16. In a further telephone conversation with Dr B on 13 April 2018, you stated that:

a. you had spoken to a member of staff at your locum agency and named that individual;
Admitted and found proved

b. that member of staff had told you that it was acceptable for you to leave your shift on 8 April 2018 at 09:30.
Admitted and found proved

17. You knew you had not:

a. spoken to anyone at your locum agency;
Admitted and found proved

b. been told that it was acceptable for you to leave your shift at 09:30.
Admitted and found proved

18. Your actions described at paragraph 16 were dishonest by reason of paragraph 17.
Admitted and found proved

19. During a meeting held with Dr C on 2 May 2018, you stated words to the effect that there had been no occasion other than 8 April 2018 where your timesheets failed to reflect the hours you had worked.
Admitted and found proved

20. You knew that Timesheets 1 and / or 2 also failed to reflect the hours you had worked.
Admitted and found proved
21. Your actions described at paragraph 19 were dishonest by reason of paragraph 20.
Admitted and found proved

Background

5. Dr Selvarajah qualified as a doctor in 2015. Prior to the events which are the subject of the hearing, Dr Selvarajah was working as a Foundation Year 2 (FY2) doctor in Boston Lincolnshire. Due to the demands of the FY2 programme she did not undertake any locum work. However, Dr Selvarajah was subsequently accepted on a specialist GP VTS training program in Hillingdon and from February 2018 she started a full time GP based rotation. In January 2018, to supplement her income, Dr Selvarajah registered as a locum doctor with RM Medics.

6. On three occasions between March and April 2018 Dr Selvarajah, using forged signatures, dishonestly submitted timesheets indicating that she had worked particular locum shifts when she had not. On four occasions, when questioned about these fraudulent timesheets, Dr Selvarajah made dishonest statements.

7. Concerns regarding Dr Selvarajah’s honesty and integrity arose in April 2018. On 8 April 2018 Dr Selvarajah was scheduled to undertake a 9-hour shift from 7.30am - 4.30pm, through RM Medics locum agency, as a locum senior house officer (‘SHO’) in the A&E department at West Middlesex University hospital. However, she did not attend. Dr B, Consultant Emergency Medicine, West Middlesex University Hospital (part of the Chelsea and Westminster Hospital NHS Foundation Trust) (the Trust), noticed that the locum (Dr Selvarajah) had not turned up. Having spoken to the Registrar who had also not seen the locum Dr A made a note of the matter as he was about to go on leave. He spoke to the site management team to arrange another doctor from a locum agency to cover the shift for that day.

8. Dr Selvarajah submitted a timesheet for 8 April 2018 to RM Medics. The following day Dr Selvarajah contacted Mr A of RM Medics locum agency, via Whatsapp messenger, to advise him that she had sent her timesheet from the previous day. On 10 April 2018 Mr A sent a reply. By this time Dr Selvarajah’s timesheet had been submitted and the claim was being disputed by the Trust. Mr A asked Dr Selvarajah to confirm who she had worked with. Dr Selvarajah informed Mr A, that ‘Dr Ahmed’, a ‘locum registrar’, had signed her off early on 8 April 2018. She also stated in her message that she was ‘not impressed with the department’ and this had put her off working for the Trust in the future.

9. When Dr B returned from leave, he contacted the locum agency to inform them that Dr Selvarajah had not turned up for her shift on 8 April 2018 but had completed a timesheet indicating that she had. On 13 April 2018, during a telephone conversation with Dr Selvarajah, Dr B asked her why she had not turned up for her shift and she told him that she had undertaken the shift. She stated that she had
Record of Determinations –
Medical Practitioners Tribunal

worked in the Emergency Department from 8.30am until around 2.00pm, and in the Acute Admissions unit from around 2pm until 4.30pm. In a further telephone conversation later that day Dr Selvarajah told Dr B that a member of staff at the locum agency had told her that it was acceptable for her to leave her shift on 8 April 2018 at 9.30am. On the same date Dr Selvarajah admitted to Mr A that she had not attended the shift on 8 April 2018. She stated that she had arrived around 8.30am but had left before 10.30am. Although on 17 May 2018 Dr Selvarajah had further contact with Mr A via Whatsapp regarding the timesheet relating to 27 February 2018, she did not admit to him that this timesheet was also false.

10. On 23 April 2018 Dr E, Postgraduate Dean and Responsible Officer, Health Education England, North West London, wrote to Dr D, Responsible Officer, RM Medics, to confirm that Trust was to investigate the ‘incident’ on 8 April 2018. In her letter she stated that she had instructed the GP school to invite Dr Selvarajah to meet with them, where it was expected that Dr Selvarajah would declare the full scope of her work since commencing GP training (including all locum work). Dr E stated that she also expected Dr Selvarajah to make a declaration that all other timesheets submitted for locum work have been accurate.

11. On 26 April 2018 Dr C, Head of School for General Practice (‘GP’) for Health Education England, North West London, sent an email to Dr Selvarajah, which stated:

‘As indicated in [Dr E]’s letter, I have been asked to arrange a meeting with you. This is primarily intended to be supportive, but would also require that you declare the full scope of your work since commencing GP training, and that you declare the accuracy of any other work sheets’.

12. A meeting took place on 2 May 2018. At that meeting Dr Selvarajah dishonestly told Dr C that there had been no occasion, other than 8 April 2018, where her timesheets failed to reflect the hours she had worked.

13. Following the Trust’s investigation, it came to light that Dr Selvarajah had also fraudulently submitted timesheets to RM Medics for 27 February 2018 and 14 March 2018, in which she indicated that she had worked for various hours on those dates.

14. The first timesheet (Timesheet 1) relating to 27 February 2018 was a claim by Dr Selvarajah for 8.5 hours which she had not worked. The timesheet purported to be authorised by forging a signature in the name of ‘Abbas’. Timesheet 1 was submitted for payment on or around 26 March 2018, for which Dr Selvarajah was paid £340. She repaid the money on 5 June 2018, after her actions had been discovered.

15. The second timesheet (Timesheet 2) relating to 14 March 2018 was a claim by Dr Selvarajah for 7.5 hours which she had not worked. This timesheet was
purported to be authorised by a signature which was illegible. Timesheet 2 was submitted for payment on or around 19 March 2018 for which Dr Selvarajah was paid £340. She repaid this money on 18 November 2019, some 20 months after receiving it.

16. The third timesheet (Timesheet 3) relating to 8 April 2018, was a claim by Dr Selvarajah for 10 hours, which she had not worked. This timesheet was purported to be authorised by a forged signature, in the name of ‘Ahmed’. Timesheet 3 was submitted for payment on or around 9 April 2018. Dr Selvarajah was not paid for this timesheet as her dishonesty had been discovered.

17. Dr Selvarajah made false statements to Dr B on 13 April 2018. She made false statements to Mr A on 9 April 2018 and 13 April 2018. She made a false statement to Dr C on 2 May 2018. On 30 May 2018, during a discussion with Dr F, Individual Support Team, London and South East Support Unit, she maintained that her dishonesty was limited to the 8 April 2018 timesheet.

Impairment

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

Witness Evidence

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

- Ms G, Compliance Manager, RM Medics,
- Dr H, Managing Director of the Health Care Consultant Group
- Dr B, Consultant Emergency Medicine, West Middlesex University Hospital
- Dr I, A&E Consultant, West Middlesex University Hospital, in person
- Dr D, Consultant Haematologist at the North Cumberland University Hospitals NHS Foundation Trust, in person
- Mr A, Senior Recruitment Consultant, RM Medics, in person
- Mr J, Senior Case Management Officer, NHS Health Education England
- Dr C, Head of School for General Practice (‘GP’) for Health Education England, North West London

Documentary Evidence

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

- Dr Selvarajah’s Timesheets 1, 2 and 3
Record of Determinations – Medical Practitioners Tribunal

- Whatsapp messages between Dr Selvarajah and Mr A, Senior Recruitment Consultant, RM Medics
- Email from Dr B, Consultant in Emergency Medicine, dated 13 April 2018
- Email from Dr D, Responsible Officer, RM Medics to Dr K, dated 23 April 2018
- Letter from Dr E to Dr D, dated 23 April 2018
- Email from Dr C to Dr Selvarajah, dated 26 April 2018
- Notes of meeting on 2 May 2018 between Dr Selvarajah and Dr C
- Letter from Dr D to Dr Selvarajah, dated 3 May 2018
- Letter dated 30 May 2018 from Dr F, Individual Support Team, London and South East Professional Support Unit
- Dr Selvarajah’s CPD certificates
- Dr Selvarajah’s CPD testimonials

21. Dr Selvarajah provided a witness statement dated 29 November 2019 and a reflective statement dated 4 January 2020. She also gave oral evidence at the impairment stage of the hearing.

Dr Selvarajah’s Oral Evidence

22. During her oral evidence Dr Selvarajah fully accepted that her dishonest conduct amounted to serious misconduct and that she has brought the profession into disrepute. She also accepted that she had a number of opportunities to declare the full extent of her dishonesty but failed to do so.

23. Dr Selvarajah informed the Tribunal that she had worked a shift on 21 February 2018 through RM Medics for which she had not been paid. She stated that she was owed approximately £200 and had made some enquiries through the agency but had not pursued the matter. She stated that although she did not submit fraudulent timesheets solely because of the non-payment issue, it was a contributing factor. She acknowledged that she had been angry at not being paid.

24. Dr Selvarajah told the Tribunal that during the period of March 2018 to April 2018 she was particularly concerned about XXX. She stated that she was under considerable personal and financial pressure. She stated these were not excuses and that she knows that what she did is wrong. In relation to her thought process at the time, she stated that she believed that alleviating some of her financial pressures might resolve some of her problems. Dr Selvarajah informed the Tribunal that until recently she has been the main provider of income for her family and felt that she had nobody to discuss her problems with. She stated that she was also having difficulties in communicating with her partner at that time. She stated that she has been under personal financial pressure since she was 18 years old and that her dishonesty was partly motivated by her financial problems.

25. Dr Selvarajah informed the Tribunal that the relationship with her Educational Supervisor was complex. She stated that in 2018 she XXX and on one particular
occasion her Educational Supervisor wanted her to undertake home visits, despite XXX. She stated that she felt unsupported at work particularly when her Educational Supervisor refused to allow her time off to attend a medical appointment with XXX she felt angry.

26. Dr Selvarajah accepted that it was wrong to leave the A&E department on 8 April 2018 without informing anyone and apologised. She accepted that this was very serious.

27. Dr Selvarajah conceded that by 30 May 2018 the true extent of her dishonesty had still not come to light and she was still hoping that only one fraudulent time sheet would be discovered. Dr Selvarajah said that she was trying to ‘run away’ from what she had done. She stated that she did not initially ‘come clean’ as she had worked very hard, was trying to protect her career and was worried about what she had to lose and of all the people she would ‘let down’.

28. In relation to the Whatsapp messages Dr Selvarajah admitted she was trying to conceal her dishonesty and repeatedly apologised to the Tribunal for this. She admitted that the information she provided to Mr A in the Whatsapp messages were ‘made up’. She accepted that it was wrong of her to disparage the department and the Trust in the Whatsapp messages and she apologised for her reference to a fictitious person.

29. She stated that she recognised that there were lots of people who were hurt or could have been hurt by her dishonest actions. Dr Selvarajah stated that the position that she put Mr A in was ‘disgraceful’ and that she had tried to message him to apologise but he has since changed his number. Dr Selvarajah said that she was subsequently advised not to make full admissions until the GMC had completed its investigations.

30. In her email to Dr C, dated 30 May 2018, Dr Selvarajah stated ‘admittedly it is a very circumstantial incident’. During her oral evidence Dr Selvarajah explained that by ‘circumstantial’ she meant that there were a lot of mitigating circumstances. She accepted that in that email she referred to a single incident of dishonesty.

31. Dr Selvarajah informed the Tribunal that when she submitted the timesheet for 27 February 2018, she did not think about whether or not she would be missed. She said that in February 2018 she was dealing with XXX. She said that she was overwhelmed XXX and that she could not have practised safely that day. She said that at the time ‘for some reason’ she thought that she was entitled to the money and that it would alleviate her financial pressures.

32. Dr Selvarajah informed the Tribunal that her dishonesty would never be repeated. She said that her personal life is very different, and she recognises that her behaviour was ‘outrageous’ and that she deserves to be ‘punished’. Dr Selvarajah said that she admitted her dishonesty to her family and friends towards the end of 2018. She said that it was a learning curve, not only for her, but also for her family. She stated that she
Record of Determinations –
Medical Practitioners Tribunal

apologised to any consultants she had encountered subsequent to her dishonesty being discovered. However, she said that she had not apologised personally to the Trust, those colleagues she was working with at the time or those that had tried to support her.

33. In relation to the action plan described in Dr F’s letter dated 30 May 2018, Dr Selvarajah stated that she had completed most of the suggested actions. However, she only attended two of the four coaching session offered, as at the first session it was identified that her dishonest conduct arose as a result of XXX, which she has now addressed.

34. Dr Selvarajah said that as a result of her misconduct she XXX and has made changes to her personal life by XXX and focussing on her XXX wellbeing. She stated that her relationship with her partner has improved and that she has taken up running to alleviate stress. She stated that she now knows where to go to for support and has learned to be more open. Dr Selvarajah stated that she chose to take a year out of her training in order to manage her workload. She stated that she has undertaken locum A&E shifts and that she has coped well.

Mr Taylor’s Submissions

35. On behalf of the GMC, Mr Taylor referred the Tribunal to the over-arching objective and to paragraph 17 of the Sanctions Guidance (November 2019) (the SG).

‘17. Patients must be able to trust doctors with their lives and health, so doctors must make sure that their conduct justifies their patients’ trust in them and the public’s trust in the profession.... the reputation of the profession as a whole is more important than the interests of any individual doctor.’

36. Mr Taylor reminded the Tribunal of the two-stage process the Tribunal should adopt. He submitted that Dr Selvarajah’s dishonesty arose in the context of her clinical practise. He stated that the terms ‘dishonourable’, ‘disgraceful’ ‘deplorable’ and ‘egregious’ could all be used to describe the nature and extent of her misconduct.

37. Mr Taylor reminded the Tribunal that Dr Selvarajah failed to turn up for work, which resulted in a real risk to patients. He submitted that the seven incidents of dishonesty, including the attempts to cover up the fraudulent timesheets, demonstrated repetition and persistence. He stated that as part of Dr Selvarajah’s attempt to cover up her dishonesty she made positive assertions knowing that these were false. He stated that she only admitted the full extent of her dishonesty after it was discovered. He reminded the Tribunal of the meetings with Dr C and Dr D. He told the Tribunal that Dr D referred to Dr Selvarajah’s reflective statement in which
she demonstrated insight. Mr Taylor submitted that Dr Selvarajah was presenting her dishonesty as an isolated incident at that time, when it was not.

38. Mr Taylor submitted that Dr Selvarajah’s dishonest actions amounted to serious misconduct.

39. In relation to impairment Mr Taylor reminded the Tribunal of Dr Selvarajah’s reflective statements which focused on the impact on her, rather than on others and the reputation of the profession. Mr Taylor referred the Tribunal to paragraphs 65 and 71 of Good Medical Practice (2013) (the GMP), which states:

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

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

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

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

40. Mr Taylor reminded the Tribunal of the need to protect and promote the health, safety and wellbeing of the public, to promote and maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct in members of the profession. He stated that public confidence in the profession would be undermined if a finding of impairment were not made.

41. Mr Taylor referred the Tribunal to the case of Grant v NMC 2011 EWCH 92 (Admin) which cites Dame Janet Smith in her Fifth Shipman report.

‘Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

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

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

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

d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.’
Record of Determinations –
Medical Practitioners Tribunal

42. Mr Taylor submitted that all four limbs are engaged or at the very least limbs b, c, and d. He submitted that Dr Selvarajah’s fitness to practise is impaired by reason of her misconduct.

Mr McCartney’s Submissions

43. Mr McCartney accepted on behalf of Dr Selvarajah that the facts found proved amount to misconduct and that, as a consequence, her fitness to practise is impaired.

44. Mr McCartney referred the Tribunal to Dr Selvarajah’s reflective statement in relation to her recognition of the impact her misconduct had on others, which he submitted contradicts the assertion that she has not accepted the gravity of her misconduct. Mr McCartney reminded the Tribunal that despite Dr Selvarajah’s misconduct Dr C continues to work with her and that the people who are currently working with her are prepared to trust her. He reminded the Tribunal of Dr Selvarajah’s personal and family circumstances at the time of her misconduct.

45. In relation to the protection of the public Mr McCartney told the Tribunal that it is accepted that Dr Selvarajah failed to turn up for work which had implications for her colleagues and patients. He reminded the Tribunal of the coaching that Dr Selvarajah received which identified XXX as the root cause of her problems. He submitted that the root cause has been identified and addressed and that Dr Selvarajah fully appreciates the gravity of what she has done. He submitted that because she has addressed the root cause there is no risk of repetition. Mr McCartney drew the Tribunal’s attention to the positive testimonials and to Dr Selvarajah’s Continuing Professional Development (CPD). He invited the Tribunal to take into account that it was difficult for Dr Selvarajah to give oral evidence and to discuss the matters that led to her dishonest conduct.

The Relevant Legal Principles

46. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal’s judgement alone.

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

48. The Tribunal must determine whether Dr Selvarajah’s fitness to practise is impaired today, taking into account her conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.
The Tribunal’s Determination on Impairment

Misconduct

49. The Tribunal, in considering whether the facts found proved amounted to misconduct had regard to paragraphs 65 and 71 of GMP, above. The Tribunal was satisfied that Dr Selvarajah’s actions, in dishonestly submitting three timesheets for work that she had not done, represented a significant departure from the principles of honesty and integrity in GMP.

50. The Tribunal noted that Dr Selvarajah has admitted seven incidents of dishonesty over a period of two months. Her dishonesty breached the trust of her employers, her colleagues and the locum agency. The Tribunal accepted that Dr Selvarajah was under significant personal stress and financial pressure at the time and that these factors had an impact on her judgement. However, submitting the fraudulent timesheets was a conscious and deliberate act by Dr Selvarajah and the attempt to avoid the consequences of her actions by making false statements to Dr B, Dr C, Dr F and Mr A was also conscious and deliberate. The Tribunal took the view that Dr Selvarajah’s primary motivation was financial gain and she chose to put her own interests above the interests of others and above her professional duties as a medical practitioner. Furthermore, Dr Selvarajah in attempting to avoid the consequences of her actions, was prepared to mislead senior colleagues at the Trust which had the potential to bring other people under suspicion.

51. The Tribunal noted Dr C’s email to Dr Selvarajah dated 26 April 2018, in which he stated:

‘As indicated in [Dr C]’s letter, I have been asked to arrange a meeting with you. This is primarily intended to be supportive, but would also require that you declare the full scope of your work since commencing GP training, and that you declare the accuracy of any other work sheets...

52. The arranged meeting with Dr Selvarajah and the Deanery took place on 2 May 2018. Dr Selvarajah lied in that meeting and continued to mislead, when she had the opportunity to reflect on her conduct and to be open and honest about what she had done.

53. In these circumstances, the Tribunal concluded that Dr Selvarajah’s dishonest conduct has brought the profession into disrepute. It is also conduct which fellow practitioners would regard as deplorable.

54. The Tribunal concluded that Dr Selvarajah’s dishonest conduct fell far short of the standards of conduct reasonably to be expected of a doctor. The Tribunal
determined that, taken together, the seven instances of dishonesty, over a period of two months, and the subsequent cover-up amount to serious misconduct.

**Impairment**

55. The Tribunal having found that the facts found proved amounted to misconduct, went on to consider whether, as a result of that misconduct, Dr Selvarajah’s fitness to practise is currently impaired.

56. The Tribunal considered the degree of insight demonstrated by Dr Selvarajah. The Tribunal noted her full admissions and accepted that her apology was genuine. It was clear to the Tribunal that Dr Selvarajah had taken the opportunity, in preparation for this hearing, to reflect on her conduct and behaviour. Although Dr Selvarajah acknowledged in her reflective statement and during her oral evidence that her dishonesty had had a significant impact on others, her understanding of the impact appeared to be superficial. The Tribunal noted that Dr Selvarajah addressed her XXX circumstances. However, the well-developed aspects of Dr Selvarajah’s reflections were restricted to her personal circumstances and the impact on those close to her. Therefore, the Tribunal concluded that Dr Selvarajah’s insight was insufficient, given her limited consideration of the implications of her actions on others.

57. The Tribunal also considered the issue of remediation. Whilst it is difficult to demonstrate remediation following a finding of dishonesty, the Tribunal considered that in this case Dr Selvarajah’s conduct is capable of remediation. The Tribunal noted the CPD completed by Dr Selvarajah was over a number of days in September, October and November 2019 and mainly consisted of on-line e-learning. Although Dr Selvarajah’s CPD was targeted to address her misconduct, the Tribunal has not been provided with any evidence of what she learnt from undertaking these on-line modules and how this will influence her behaviour in the future. The well-developed steps Dr Selvarajah has taken towards remediation were limited to her personal circumstances. Whilst the Tribunal accepted that Dr Selvarajah’s personal XXX circumstances were difficult, it considered that she had underplayed her financial motivation.

58. Although the Tribunal was not satisfied that Dr Selvarajah has developed sufficient insight it considered it unlikely that she would act dishonestly in the same way again in the future and as such, the risk of repetition is low. In reaching this conclusion the Tribunal accepted that Dr Selvarajah had not thought through the consequences of her dishonest actions at the time they were committed. The Tribunal considered that this is unlikely to be repeated.

59. The Tribunal went on to determine whether a finding of impairment was required to uphold the wider public interest. The Tribunal is in no doubt that public confidence in the medical profession and the need to uphold proper standards for
Record of Determinations –
Medical Practitioners Tribunal

that profession would be adversely affected if it were not to make a finding of
impairment in this case. The Tribunal has therefore determined that Dr Selvarajah’s
fitness to practise is currently impaired by reason of misconduct on the grounds that
a finding of impairment is required to protect the wider public interest.

Determination on Sanction - 10/01/2020

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

Submissions

2. On behalf of the GMC, Mr Taylor submitted that the appropriate and
proportionate sanction in this case would be erasure of Dr Selvarajah’s name from
the Medical Register. However, he stated, that the decision as to the appropriate
sanction is a matter for the Tribunal to determine.

3. Mr Taylor referred to the approach the Tribunal must take in determining
what sanction would be most proportionate and appropriate, in accordance with the
Sanctions Guidance (November 2019) (“the SG”). He reminded the Tribunal that in
deciding what sanction, if any, to impose it should consider the sanctions available,
starting with the least restrictive. Mr Taylor emphasised the need to refer to
paragraph 21 of the SG, which states:

‘21. ... once the tribunal has determined that a certain sanction is necessary
to protect the public (and is therefore the minimum action required to do so),
that sanction must be imposed, even where this may lead to difficulties for a
doctor. This is necessary to fulfil the statutory overarching objective to protect
the public.’

4. Mr Taylor reminded the Tribunal that the legal principles derived from case
law have consistently emphasised that confidence in the profession is paramount
and in cases of serious dishonesty, that personal mitigating circumstances are of less
significance.

5. Mr Taylor reminded the Tribunal of the overarching objective and submitted
that limbs b (public confidence) and c (professional standards of conduct) are
engaged in this case. He stated that even though a doctor may be inexperienced,
that does not make dishonest conduct acceptable. He repeated that it is difficult to
remediate dishonesty and reminded the Tribunal that it found Dr Selvarajah’s insight
was insufficient and superficial.
6. Mr Taylor submitted that this is not a case where there are exceptional circumstances and therefore taking no action would not be appropriate. He submitted that conditions would not be appropriate in this case and, in any event, would be unworkable. Mr Taylor reminded the Tribunal that imposing a period of suspension would have a deterrent effect but submitted that it is necessary to send out more than a signal in this case. He submitted that Dr Selvarajah’s dishonesty was so serious that it is fundamentally incompatible with continued registration. He reminded the Tribunal that Dr Selvarajah attempted to cover up her serious misconduct and only came clean after the Trust’s investigation.

7. Mr Taylor referred the Tribunal to paragraph 109 of the SG. He submitted that with regard to the factors which indicate paragraphs a, b, and h are engaged, which states:

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

a. A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.

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

c...
d...
e...
f...
g...

h. Dishonesty, especially where persistent and/or covered up (see guidance below at paragraphs 120–128).

i...

j.’

8. Mr Taylor referred the Tribunal to the same paragraphs of Good Medical Practice (the GMP) that he referred to during his submission on impairment. He submitted that Dr Selvarajah has breached the fundamental tenets of trust and honesty as her misconduct was serious, repeated, persistent, covered up, and was committed within the context of her professional role.

9. Mr Taylor referred the Tribunal to paragraphs 120 -128 in the SG relating to dishonesty which state that registered doctors must be honest and trustworthy and
Record of Determinations – Medical Practitioners Tribunal

make sure that their conduct justifies their patient’s trust in them and the public’s trust in the profession. Mr Taylor reminded the Tribunal that evidence of clinical competence cannot mitigate serious and/or persistent dishonesty. He submitted that Dr Selvarajah defrauded her employer and imposing a sanction of erasure is the only means of protecting the public interest.

10. Mr McCartney, on behalf of Dr Selvarajah, submitted that this case does not warrant erasure. He submitted that the public interest objectives of this case can be met by imposing an order of suspension towards the higher end of the 12-month maximum period. However, he accepted that Dr Selvarajah has further work to do and submitted that she should be given the opportunity to demonstrate that she has developed further insight at a review hearing. He further submitted that Dr Selvarajah’s dishonest conduct does not need to end her career.

11. Mr McCartney reminded the Tribunal of Dr Selvarajah’s XXX difficult personal circumstances and the associated stressors. He invited the Tribunal to accept that due to these circumstances Dr Selvarajah lost judgement and perspective. He described these circumstances as a ‘perfect storm’. He acknowledged the Tribunal’s finding that Dr Selvarajah was motivated by financial gain. However, he submitted that this was in the context of a young woman who felt obliged to XXX. He reminded the Tribunal that Dr Selvarajah stated during her oral evidence that at times she felt XXX. Mr McCartney accepted that Dr Selvarajah attempted to cover up her dishonesty, she had not been full and frank about the extent of her dishonesty and should have been open and honest from the outset. He submitted that Dr Selvarajah’s dishonest conduct was not an excuse.

12. Mr McCartney reminded the Tribunal that Dr Selvarajah was of previous good character, save for a driving offence. He stated that it was inevitable these matters were going to be uncovered but, as accepted by the Tribunal, Dr Selvarajah did not fully consider the consequences of her actions at the time. He also reminded the Tribunal that Dr Selvarajah made full admissions to the Tribunal. He stated that she had expressed shame and had made a genuine apology to the Tribunal which demonstrates her remorse. He stated that Dr Selvarajah’s dishonesty was put to her repeatedly during her oral evidence and each time she fully admitted it and accepted that what she had done was wrong.

13. Mr McCartney acknowledged the Tribunal’s finding that Dr Selvarajah has demonstrated partial insight and that she needs to further reflect on the impact of her actions on others and her coping strategies. He submitted that it is relevant that Dr Selvarajah is a young doctor at an early stage of her career. He further submitted that as a young doctor, she had not yet fully developed coping strategies to deal with stress factors. However, he accepted that it is for Dr Selvarajah to take responsibility for her actions and he submitted that she has done so.
14. Mr McCartney submitted that to end Dr Selvarajah’s career would be disproportionate.

The Tribunal’s Determination on Sanction

Mitigating and Aggravating factors

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

- Dr Selvarajah’s full and frank admissions at the outset of these proceedings
- Dr Selvarajah’s expressions of apology and remorse to the Tribunal
- Dr Selvarajah previous good character with no previous Fitness to Practise concerns
- Dr Selvarajah’s partial insight
- Dr Selvarajah repaid the monies

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

- Dr Selvarajah’s serious breach of the principles in Good Medical Practice – trust and honesty
- Dr Selvarajah’s failure to apologise to others
- Dr Selvarajah’s failure to recognise the impact of her dishonest conduct on others
- Dr Selvarajah’s misconduct was serious and in a professional setting
- Dr Selvarajah’s misconduct was repeated, persistent and the cover up included several attempts to deflect blame onto others and limit the extent of her dishonesty

The Tribunal’s Approach

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

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

19. The Tribunal has already given a detailed determination on impairment and it has taken those matters into account during its deliberations on sanction.
No Action

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

21. The Tribunal found that there are no exceptional circumstances that justify taking no action against Dr Selvarajah’s registration. The Tribunal determined that, in view of the seriousness of the facts admitted and found proved and its finding of impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action.

Conditions

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

23. The Tribunal determined that a period of conditional registration would not adequately reflect the serious nature of Dr Selvarajah’s misconduct. In a case involving repeated dishonesty and attempts to cover up that dishonesty, conditions could not be formulated to adequately protect the public interest and maintain public confidence in the medical profession. Further, the Tribunal concluded that conditions would not send the appropriate message to Dr Selvarajah, the profession and the public with regard to the high standards of conduct and behaviour expected of registered doctors at all times. The Tribunal has, therefore, determined that it would not be sufficient to direct the imposition of conditions on Dr Selvarajah’s registration.

Suspension

24. The Tribunal then went on to consider whether suspending Dr Selvarajah’s registration would be appropriate and proportionate. In doing so, the Tribunal took into account paragraphs 91 and 92 of the SG which state:

‘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 unbecoming 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
Record of Determinations –
Medical Practitioners Tribunal

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)’

25. Dr Selvarajah’s dishonest actions were serious departures from the principles
of Good Medical Practice and the high professional standards expected of members
of the medical profession. Although Dr Selvarajah’s misconduct did not relate to her
clinical competence, it did relate to her conduct and behaviour within the context of
her professional role. The Tribunal accepted the submission made by Mr Taylor that
dishonesty whilst performing a professional function is particularly serious. The
Tribunal was mindful that Dr Selvarajah’s dishonesty undermined her professional
integrity and had the potential to undermine trust and confidence in the medical
profession as a whole. The Tribunal took the view that a period of suspension would
send a clear signal to Dr Selvarajah, the public and wider profession reaffirming the
standards of conduct and behaviour expected of all registered doctors. Although a
suspension order is punitive in nature the Tribunal also took the view that the
personal consequences for Dr Selvarajah are far outweighed by the need to maintain
public confidence and uphold and maintain high standards of behaviour within the
profession.

26. The Tribunal noted that the issue of compatibility with continued registration
is a separate consideration and is one of the three relevant factors set out in
paragraph 97 of the SG. Paragraph 97 lists a number of non-exhaustive factors
which may indicate that suspension is appropriate. The factors relevant to Dr
Selvarajah’s case are as follows:

a. A serious breach of Good medical practice, but where the doctor’s
misconduct is not fundamentally incompatible with their continued
registration, therefore complete removal from the medical register would not
be in the public interest. However, the breach is serious enough that any
sanction lower than a suspension would not be sufficient to protect the public
or maintain confidence in doctors.

b ...
c ...
d ...
e ...
f. No evidence of repetition of similar behaviour since incident.

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

27. The Tribunal noted, a finding of fundamental incompatibility with continued
registration, as stated in paragraph 92 of the SG, amounts to a determination that
there are no circumstances in which the doctor should be permitted to practise medicine ever again. Although Dr Selvarajah’s dishonesty was serious, took place over a prolonged period of time and brought the medical profession into disrepute, the Tribunal concluded that it does not fall into the category of cases which require permanent removal from the register. In reaching this conclusion the Tribunal took into account Dr Selvarajah’s personal mitigation, in particular her family pressures and the associated financial strain. Furthermore, Dr Selvarajah’s dishonest behaviour has not been repeated and the Tribunal has already determined that repetition in the longer term is unlikely. In addition, Dr Selvarajah has demonstrated some insight and although the scope and level of it is incomplete, the Tribunal concluded that this did not have any impact on the risk of repetition.

28. Having considered paragraph 97 of the SG and whether suspension was the appropriate sanction, the Tribunal also considered paragraph 109 relating to erasure. Paragraph 109 lists a number of non-exhaustive factors any one of which may indicate that erasure is appropriate. The relevant factors are as follows:

   a. A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.

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

   c. ...

   d. Abuse of position/trust (see Good medical practice, paragraph 65: 'You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession').

   e. ...

   f. ...

   g. ...

   h. Dishonesty, especially where persistent and/or covered up (see guidance below at paragraphs 120–128).

   i. ...

   j. Persistent lack of insight into the seriousness of their actions or the consequences.’

29. Although the Tribunal concluded that Dr Selvarajah’s misconduct is not fundamentally incompatible with continued registration, it noted that there are factors in this case which indicate that erasure could be the appropriate sanction.
Record of Determinations –
Medical Practitioners Tribunal

The Tribunal was mindful that Dr Selvarajah’s misconduct was deliberate and persistent, it represented a breach of her employer’s trust, and although she has insight into the seriousness of her actions, her insight into the consequences of her actions on others, is limited. The Tribunal took the view that Dr Selvarajah’s attempts to cover up her dishonesty, despite being given opportunities to be open and honest, were particularly serious.

30. In these circumstances, the Tribunal took the view that the decision between suspension and erasure was borderline.

31. The Tribunal considered the guidance given by Andrew Baker J in GMC v Khetyar [2018] EWHC 813 at paragraph 55 where he stated that:

‘...a tribunal ought to consider erasure very seriously when paragraph 109 does apply, especially if it does so on multiple grounds, in which case powerful case specific reasons ought to be required if a decision against erasure is to be justified.’

However, the Tribunal noted that not every case of dishonesty must result in erasure.

32. The Tribunal concluded that Dr Selvarajah’s dishonest conduct occurred during a period of time when she was under considerable personal and financial strain which appears to have clouded her judgment and sense of perspective. This included XXX, bearing the burden of financial pressures XXX, in addition to a degree of personal isolation. Dr Selvarajah’s personal circumstances have improved and the positive testimonials submitted to the Tribunal on her behalf, indicate that despite her misconduct, she is held in high regard by her colleagues. Dr Selvarajah has demonstrated sufficient insight to indicate that she understands the gravity of her dishonest conduct. Furthermore, the risk of repetition is low. Having balanced these factors carefully, the Tribunal concluded that this was a case where the wider public interest could properly be served by imposing a period of suspension. The Tribunal was satisfied that permanent removal from the medical register would be disproportionate.

33. The Tribunal determined that Dr Selvarajah’s registration should be suspended for a period of 12 months. The Tribunal concluded that imposition of the maximum period of suspension was necessary for two interrelated reasons. First, it marks the seriousness of Dr Selvarajah’s conduct. Secondly, it will send a clear message to Dr Selvarajah, the profession, and the wider public that repeated dishonesty and attempts to cover it up, will put continued registration at risk.
Record of Determinations –
Medical Practitioners Tribunal

Review

34. The Tribunal noted the observation of Mr Justice Kerr in the case of Kimmance v GMC [2016] 1808 (Admin) where at paragraph 66, in relation to insight and remediation, he stated:

‘...that a doctor or other professional who has done wrong has to look at his or her conduct with a self-critical eye, acknowledge fault, say sorry and convince a panel that there is real reason to believe he or she has learned a lesson from the experience.’

35. The importance of learning from the experience is to avoid repetition of the misconduct. The Tribunal has already determined that Dr Selvarajah’s dishonesty is unlikely to be repeated, her apology to the Tribunal has been accepted as genuine and there are no patient safety concerns. The Tribunal’s decision to impose a 12-month period of suspension was based solely on the need to maintain public confidence in the profession and declare and uphold proper standards of conduct and behaviour. The Tribunal was satisfied that the overarching objective will have been met at the end of the suspension period. There was no proper basis upon which the Tribunal could conclude that, at the end of the suspension period, it would be unsafe for Dr Selvarajah to return to the register unrestricted. In these circumstances, the Tribunal concluded that a review hearing would serve no useful purpose.

Determination on Immediate Order - 10/01/2020

1. Having determined that Dr Selvarajah’s registration should be suspended, the Tribunal has considered, in accordance with Section 38 of the Medical Act 1983, as amended, whether her registration should be subject to an immediate order of suspension.

Submissions

2. Mr Taylor, on behalf of the General Medical Council made no application for the imposition of an immediate order, as there are no patient safety concerns.

3. Mr McCartney, on behalf of Dr Selvarajah, submitted that an immediate order is not necessary.

The Tribunal’s Determination

4. Having considered the submissions, and in the light of all the circumstances of the case, the Tribunal has determined that, given there are no patient safety concerns in this case, it is not necessary to make an immediate order suspending
Record of Determinations –
Medical Practitioners Tribunal

Dr Selvarajah’s registration. The Tribunal is satisfied that the substantive order of suspension is sufficient to mark the gravity of Dr Selvarajah’s misconduct and to protect the wider public interest.

5. This means that Dr Selvarajah’s registration will be suspended 28 days from today, unless she lodges an appeal. If Dr Selvarajah does lodge an appeal she will remain free to practise unrestricted until the outcome of any appeal is known.

6. There is no interim order to revoke.

7. That concludes this case

Confirmed
Date 10 January 2020

Ms Margaret Obi, Chair