Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 05/06/2019 - 07/06/2019

Medical Practitioner’s name: Dr Martin EMANUEL

GMC reference number: 3629499

Primary medical qualification: MB BS 1984 Lagos

Type of case
Outcome on impairment
Restoration following disciplinary erasure

Summary of outcome
Restoration application refused.
No further applications allowed for 12 months from last application.

Tribunal:

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<tr>
<th>Legally Qualified Chair</th>
<th>Mr Angus Macpherson</th>
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<td>Lay Tribunal Member:</td>
<td>Mrs Michele Clare</td>
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<tr>
<td>Medical Tribunal Member:</td>
<td>Dr Damian McDermott</td>
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</tbody>
</table>

Tribunal Clerk: Mr Sewa Singh

Attendance and Representation:

| Medical Practitioner:                  | Present and not represented |
| Medical Practitioner’s Representative: | None                        |
| GMC Representative:                    | Mr Christopher Rose, Counsel |

Attendance of Press / Public
In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.
Overarching Objective

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

Determination on Application for Restoration - 07/06/2019

1. The Tribunal has considered Dr Emanuel’s application for restoration in accordance with the provisions set out in Section 41 of the Medical Act 1983 (as amended) and Rule 24 of the General Medical Council (Fitness to Practise Rules) 2004 as amended (“the Rules”). Dr Emanuel has applied to the GMC for the restoration of his name to the Medical Register.

Background

2. Dr Emanuel qualified in 1984 in Lagos, Nigeria.

3. His case was heard before a Fitness to Practise Panel hearing (“the 2007 Panel”) which concluded on 5 April 2007. The 2007 Panel found proved, amongst other things, that Dr Emanuel failed to provide adequate care to patients registered with his practice in Belfast and that he failed to arrange for adequate cover during the times he was undertaking locum work in England.

4. The 2007 Panel found that he failed to honour a locum work commitment which he had agreed to undertake. It also found that he failed to respond to the concerns and a complaint raised by a patient, Patient A.

5. The 2007 Panel found that he failed to declare to his actual and potential employers that he was subject to investigation by his professional licensing or regulatory body.

6. The 2007 Panel found that Dr Emanuel’s conduct was unprofessional, misleading and dishonest.

7. It found his fitness to practise was impaired and determined that his registration should be erased, with immediate effect. Dr Emanuel’s registration was erased on 4 May 2007.

Restoration application

8. Dr Emanuel has applied for his name to be restored to the Medical Register. The Tribunal has considered the application in accordance with the provisions set
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out in Section 41 of the Medical Act 1983 (as amended), and Rule 24 of the General Medical Council (Fitness to Practise) Rules 2004.

Documentary Evidence before the Tribunal

9. The Tribunal was provided with the following:

- Certificate of Good Standing from the Medical and Dental Council of Nigeria dated 24 September 2018. This confirmed that Dr Emanuel was entered into the Council’s register on 19 December 1988 with full registration until 2009 when GMC informed the Council that Dr Emanuel’s name had been erased from the Medical Register. It also stated that Dr Emanuel is currently undergoing trial with the Council’s practitioner disciplinary tribunal and that there are no other allegations against him. It also states that Dr Emanuel currently has a conditional license to practise medicine in Nigeria;

- Dr Emanuel’s application for his name to be restored to the General Medical Council’s medical register, dated 16 October 2018. In the application form, Dr Emanuel set out his work history covering the period August 2011 to the present time;

- A GMC UD8 Form completed by Mr B, Administrative Manager, Ultima Medicare Hospital, Lagos, dated 9 October 2018; and a further UD8 Form completed by the Medical Director of JLT Specialist Clinic and Skin Centre, Lagos, dated 15 October 2018;

- An email from Dr Emanuel to the GMC, dated 23 November 2018, in which he set out the clinical positions he has held since 2013;

- A copy of a receipt from the Medical and Dental Council of Nigeria for payment of 20,000 lira paid by Dr Emanuel for the practising fee in 2017;

- A summary of patient cases which Dr Emanuel had been involved in while he worked at Ultima Medical Care, together with the training courses he has attended;

- An email from Dr Emanuel dated 7 March 2019 in which he stated ‘... I deeply regret my actions of the 18th and 19 the [sic] October 2003 and the effect it had on the [xxxxx]. I am remorseful over my inappropriate actions and management in relation the deceased during his final days.’ Dr Emanuel went to say:

  ‘I have the goal of making up my deficiencies in this area. I am happy to undergo training and reconciliation resilience and reflect that may be offered, .....’
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- Dr Emanuel’s reflections and involvement in relation to ‘Case F when he worked at St Q Clinic’;

- A testimonial from a representative of the Consulate of Ireland, dated 10 April 2019, confirming that, during the St Patrick’s Day celebrations held at the Consulate in Nigeria on 13 March 2019, Dr Emanuel provided medical care to one of the guests;

- A testimonial from Dr C, Diplomate in Dermatology and Medical Director, JLT Specialist Clinic and Skin Centre, attesting to Dr Emanuel’s clinical work. Dr C stated:

  ‘I understand he is to go through a tribunal in June 2019 (MPTS). I have read the guidelines and understand that as a referee and mentor my input may be helpful to him. We frequently meet and discuss cases face to face, and this oral reflection is of enormous usefulness in the developing further depth and understanding of patients and their management.

  I am confident if given the chance to retrain and show remorse he will remediate very well in the new revalidated NHS. He has shown enormous insight into his short comings in the Norfolk case in November 2003.

  Please grant him the necessary papers to allow his return to the medical fold where I believe he will excel clinically. He is aware of the need to be more careful with his paper work and not to rush it. I believe he has learnt his lesson over the last so many years and his contrite.

  I have watched him examine patients and I do not believe he constitutes any risk by being returned to the register and license.

  He reads extensively and keeps up his CME (Continuous Medical Education) program of which he gathers 20-unit points per year for the next years.’

- A testimonial from Mr D, Emergency Medicine Consultant, Sandwell and West Birmingham Hospitals NHS Trust, dated 3 May 2019, attesting to Dr Emanuel’s clinical work and good character;

- A record of Continuing Professional Development (CPD) including training courses undertaken by Dr Emanuel in Nigeria. These included:

  ‘Sudden Death’ on 22 February 2017,
  ‘Resuscitation of the new born’ on 29 March 2017
  ‘Diagnosis and Management of Prostate Cancer’ on 31 March 2017
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‘Aids, the HIV Life Cycle & the Initiation of Antiretroviral Therapy’ on 7 December 2017
‘Financial Accounting in Clinical Practice’ on 25 April 2018
‘Minimal Invasive and Bariatric Surgery’ on 18 September 2018
‘Ergonomic Dermatology in GP in the Dark Skin’ on 26 September 2018
‘Business Management’ on 27 November 2018
‘Stress Management Presentation by Socket Works’ on 25 April 2019

In addition Dr Emanuel has provided information concerning a number of courses which are in progress as follows:

‘Key questions on wasp and bee sting allergy
‘Dyspepsia in adults’
‘Key questions in chronic pain’

- An email from Dr Emanuel to the GMC, dated 1 May 2019, in which he set out:
  - his explanation for his actions in relation to Patient A;
  - his explanations in relation to the applications he made to various employers in England and the reasons why he did not disclose any details of the investigations to which he was then subject. He rebutted the suggestion of dishonesty;

- An email from Dr Emanuel to the GMC, dated 21 May 2019, in which he stated:

  ‘I promise and aver to obey my bosses hopefully in future if granted restoration and license enabling me to soar to new heights and reflect my day’s labor for my patients. I know my limits.; I will put Health and safety foremost.

  I understand my previous mistakes.

  I have employed a Practice Manager/Human resources, to guide me on Management.’

- An email from Dr Emanuel to the GMC, dated 21 May 2019, in which he stated:

  ‘expressing remorse to the deceased family

  i am contacting the mPTS to try to find pathways to express my grief to the deceased’s family XXX’ [sic]
10. The Tribunal was informed by Mr Christopher Rose, Counsel for the GMC, and by Dr Emanuel, that Dr Emanuel had submitted a further bundle of documents which consisted of clinical notes relating to patients he had treated in the last few years in Nigeria. The patient names on these notes were not redacted. For that reason, the GMC has not perused them and the bundle was not presented to the Tribunal. In any event, Mr Rose made it clear that Dr Emanuel’s clinical competence was not an issue in this application for restoration.

11. In addition, the Tribunal was informed that on 6 June 2019 Dr Emanuel had sent to the MPTS an email to which there were attached two documents, namely his Curriculum Vitae and a reflection of his clinical work in Nigeria since 2012. On inquiry by the Tribunal, Dr Emanuel did not request that the Tribunal receive this evidence before reaching its determination on his application. The Tribunal reached the view that it would not be appropriate for it to receive this documentation in the light of Dr Emanuel’s position and by reason that it only related to events after 2012.

12. This Tribunal has taken account of all the documentary evidence adduced during the course of the hearing.

**Dr Emanuel’s Oral Evidence**

13. Dr Emanuel provided a brief history of his career from when he qualified in 1984 to having a single handed practice in Belfast.

14. He told the Tribunal that the contract he had to provide a GP service to his patients in Belfast was under the old pre-1998 system. The surgery opening hours were 09:00 to 17:00. Dr Emanuel then went on to describe the environment in which he worked. He told the Tribunal that when he took over the Falls Road surgery as a single handed practice in 2001, there were only 53 patients on the patient register. This increased to 500 patients. He told the Tribunal that the practice was in a deprived area where there were many issues, including drug misuse and a high level of crime. He said that he and his staff were subjected to verbal and physical threats of violence and that the police regularly had to visit the practice in response to emergencies. Dr Emanuel said that the working environment was not good.

15. He explained that his practice in Belfast opened from 09:00 until 12:00 five days a week. This was adequate to see the small number of patients that attended the surgery. He said that, given that the patient level was so low, this was sufficient. If any patient needed to see him out of these hours, they could do so. He told the Tribunal that, in his view, this arrangement did not compromise the requirements of his contract. Dr Emanuel said that he completed his appraisals as required and that his appraiser, Dr E, had signed off his last appraisal and told him that he was ‘free to practise’. Dr Emanuel told the Tribunal that the matters giving rise to the
investigations against him were discussed during his appraisals. He said that, as far as he was aware, the details of the investigations were shared with potential and actual employers through his appraisals.

16. Dr Emanuel said he was sincerely and genuinely remorseful for the harm his actions caused Patient A and his family. He said that when he took on the locum work, he was instructed by the locum agency to ‘just get in to the car and do what the driver tells you’. He said that when he received the call about Patient A, he and the driver were already en route to see another patient. He said it would have taken the driver some time to reach Patient A and, as he already had penalty points on his driving licence, he refused to take Dr Emanuel to Patient A. Unfamiliar with the geographical area, Dr Emanuel said he did not challenge the driver. He said he was not given the option to visit Patient A. In this respect, he referred the Tribunal to the material considered by the 2007 Panel.

17. In relation to the incident regarding not completing his commitment to fulfil the locum shift, Dr Emanuel said that, at about 10:55 on the Saturday evening, he had a ‘splitting headache’. He received a call from the Administrator to say that he had been scheduled to work the next day, until midnight. Dr Emanuel said he refused to undertake the shift on the Sunday as he needed to be back in Belfast early on Monday morning to fulfil his contractual agreement and open his surgery for his patients.

18. He told the Tribunal that he has now reflected on his actions and has learnt a lot from this. He said he now did not work so hard and he recognised the need to fulfil his primary duty of care to look after his patients.

19. He went on to say that, in respect of the completion of the application forms, if he filled them incorrectly, this was because he did not understand them.

20. Dr Emanuel told the Tribunal that after the 2007 Panel hearing, he took a break. He went travelling and also visited his brother in XXX. While he was there, he spoke to his brother about the findings of the 2007 Panel and its decision. He said that his brother told him that he was in the wrong and told him ‘once you talk to a patient, you are in charge’. Dr Emanuel said that his brother also told him he should not blame others for his actions.

21. He then went on to explain that he applied to the Medical and Dental Council of Nigeria for a license to practise in 2011 but was turned away as five years had not elapsed since his erasure. He re-applied in 2012 and was successful. He said that he has since practised in Nigeria, having obtained a license to practise on an annual basis. In respect of maintaining his medical knowledge and skills, Dr Emanuel said that he has attended several lectures on matters such as blood pressure, has provided medical assistance to persons at the roadside, and examined patients at the local hospital. He also referred the Tribunal to his Continuing Professional
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Development (CPD) and Continuing Medical Education (CME). He said he has also done the ATL course and the ACLS course in 2013.

22. Dr Emanuel told the Tribunal that the nature and pattern of disease in Nigeria is different to that in the UK. He described the type of medicine he is involved in, which includes tropical illnesses as well as trauma cases, some of which he managed on his own.

23. He said that insight is something you develop after you make a mistake, and you then show remediation and reflection. He told the Tribunal that he had developed insight into the matters which led to his name being erased from the medical register.

24. In terms of the over-arching objective and the need to maintain public confidence in the medical profession, he said that there was no intentional dishonesty on his part and that if he is reinstated, he promised to ‘uphold and behave myself’, as he has done in Nigeria. He told the Tribunal that he has not received any complaints about his clinical practice in Nigeria.

25. In his evidence during cross examination by the GMC, Dr Emanuel told the Tribunal, in relation to his dishonest actions, that he did something unintentionally as he was a busy doctor operating under pressure. He said that he was remorseful for his actions and did not refute anything the GMC had said. He also accepted that employing Dr F to provide locum cover for three hours of the day was dishonest.

26. In relation to Patient A, Dr Emanuel accepted that it was his responsibility and that he was to blame. In response to a question, he said ‘…. I am responsible and guilty and not the driver’.

27. In relation to the application forms, Dr Emanuel explained that all of the forms were eventually signed off and he believed that he was disclosing the details of his investigations by authorising Dr E to share his appraisal forms with other employers. Dr Emanuel told the Tribunal that since these matters, he has changed his practice. He said he is more careful when completing forms and does not rush them.

28. In response to questions from the Tribunal, Dr Emanuel confirmed that he currently works independently, but does have access to his referees if necessary, including to discuss patient management and to reflect on cases. He confirmed that his license to practise in Nigeria is not subject to any conditions. He said that he intended to continue with his CME and successfully obtain his license to practise. He confirmed that he has a mentor in place to help and support him.

29. Dr Emanuel went on to say that if his application for restoration is granted, he intends to make contact with a former colleague in the UK with a view to securing
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an apprenticeship. He said he preferred to work within a hospital setting rather than as a GP. He told the Tribunal that, at the time of his dishonesty, he did not have a perception that his actions were dishonest. However, on reflection, he said he made serious errors, and these were ‘bad actions of a busy doctor’. He said he has now taken steps to remediate his dishonesty. In this respect, he has attended a task group led by a Professor H in medical legal negligence. He said he has also completed relevant online modules.

Submissions on behalf of the GMC

30. Mr Rose reminded the Tribunal of the aggravating features in this case as identified by the 2007 Panel, which included that Dr Emanuel had acted dishonestly. He referred the Tribunal to paragraph ten of the document entitled ‘Guidance for doctors on restoration following erasure by a medical practitioners tribunal’ (‘the Guidance’).

31. Mr Rose submitted that the Tribunal should think about the ideal standards expected from a doctor in these circumstances, particularly where, as here, Dr Emanuel is starting from a low point in terms of the standards expected. He said that the Tribunal needed to be mindful of the evidence it would wish to have in order to determine whether he is safe to be restored to the medical register. Mr Rose suggested that the ideal position in this case would be that Dr Emanuel demonstrate an acceptance and understanding of his failings in 2003/2004, present objective and quantifiable evidence to demonstrate how he has addressed his failings and the steps he has taken to remediate and rehabilitate his dishonest behaviour.

32. He submitted that Dr Emanuel has provided no objective evidence that he has remediated his dishonest behaviour. He said that Dr Emanuel has not provided a reflective statement or any objective evidence to demonstrate that he understands and has reflected upon the findings of the 2007 Panel.

33. Mr Rose said that the evidence before the Tribunal is far from that ideal. There is no true acceptance by Dr Emanuel of the 2007 Panel’s findings, and the documentation provided by Dr Emanuel makes no mention that he accepts that he was dishonest as found by the 2007 Panel. Mr Rose said that, to the contrary, Dr Emanuel refuted the findings of dishonesty though he says he did not seek to challenge them.

34. Mr Rose submitted that, in reality, the only issue which Dr Emanuel properly addresses is that concerning Patient A. He said that throughout his evidence he returned to this issue.

35. Mr Rose submitted that the matter relating to Patient A is but an example of the adverse impact that Dr Emanuel’s actions had on the overall care provided to his
patients. Dr Emanuel has not dealt with this in his written or oral evidence. He said that Dr Emanuel has, instead, sought to blame others for the inadequate care he provided. He reminded the Tribunal that, during Dr Emanuel’s evidence, he submitted that at the 2007 fitness to practise hearing, his counsel had got it right and that the GMC counsel had got it wrong in respect of the issue of dishonesty. Mr Rose submitted that this is not an acceptance of wrongdoing and it demonstrates that Dr Emanuel has no insight into his dishonest behaviour.

36. Mr Rose reminded the Tribunal that during cross examination, Dr Emanuel was quick to accept that it was his fault and his responsibility but he did not provide any explanation as to why he acted dishonestly. He submitted that the Tribunal should not take Dr Emanuel’s acceptance of the 2007 Panel’s findings at face value. It should assess this on the evidence before it.

37. He submitted that at its highest, the Tribunal has merely an acknowledgment of culpability. There is no objective or quantifiable evidence that Dr Emanuel understands that what he did was wrong, how and why he did it, and why he would not repeat his dishonest behaviour. There is insufficient information as to the steps he has taken to remEDIATE his misconduct. He said that Dr Emanuel has only today accepted that his dishonest actions were due to his financial circumstances and even then there are some qualifications. Mr Rose said that the pressure Dr Emanuel alluded to in his evidence was self-inflicted.

38. Mr Rose submitted that there is no substance in Dr Emanuel’s evidence to demonstrate that he has remediated his misconduct. At best, his answer is that he understands the importance of completing forms correctly. However, this case is about Dr Emanuel’s honesty and integrity.

39. He said that the evidence before the Tribunal, that Dr Emanuel has been practising in Lagos and has been compliant with the Nigerian Medical Council requirements, does not address the concerns of the GMC, nor does it show that he is fit to practise in the UK. Mr Rose said that Dr Emanuel’s plans to practise are ‘pie in the sky’ as he suggests going back to a former colleague with whom he worked some fifteen years ago in a busy Emergency Department at Birmingham. He has submitted no evidence of how the pressure of such an environment will impact on him. Mr Rose said that Dr Emanuel has also suggested that he would like to be in a small practice supervised by another doctor. Mr Rose reminded the Tribunal that it cannot restore a doctor to the medical register with conditions.

40. Mr Rose contended that Dr Emanuel has failed to demonstrate that he accepts the findings of the 2007 Panel, and has failed to demonstrate any insight into his dishonest behaviour. Further, he submitted that he has done little by way of steps to remediate his misconduct and has no clear plan for returning to medical practice in the UK.
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41. Mr Rose invited the Tribunal to refuse Dr Emanuel’s application.

42. In response to a question from the Tribunal, Mr Rose said that he relied on all three limbs of the Overarching Objective.

**Submissions by Dr Emanuel**

43. Dr Emanuel said that he did not seek to contradict what Mr Rose submitted to the Tribunal and that he concurred with what had been said. He accepted that there were deficiencies initially in his insight into his misconduct. He told the Tribunal that he has completed relevant online modules relating to ethical and decision making. He said that he has been deficient in these areas. However following reflection and remediation, he has now addressed these.

44. He told the Tribunal that he accepted the findings of the 2007 Panel. Further, he accepted that his actions were wrong and that he needed to improve and put patients first. He requested forgiveness for his bad actions in relation to Patient A and offered his condolences to the family.

45. Dr Emanuel told the Tribunal that he will never repeat his dishonest misconduct. If allowed to return to the medical register, he said he was willing to work wherever the Tribunal or the GMC would wish him to, with supervision.

46. He told the Tribunal that he would be useful to the National Health Service (NHS) and that his previous lack of reflection ‘could be brought up to an acceptable case level’. He said that his intentions are good and that the Tribunal could be satisfied that he would meet the expectations required of a good doctor. He said that with the assistance of the Tribunal, he could be on track to a safe pathway and rebuild public trust in the medical profession.

47. Dr Emanuel told the Tribunal that he had already developed insight into his deficiencies and that he would be happy to be retrained, mentored and monitored, and to be able to show his ‘true colours’. He said that the Tribunal and the GMC could be satisfied that there were no concerns about his behaviour.

48. He asked the Tribunal to grant his application to restore his name to the medical register.

**Legally Qualified Chair’s Advice**

49. The Tribunal accepted the Legally Qualified Chair’s advice. He referred the Tribunal to paragraphs 24 (f) and (g) of the Rules, as well as Section 41 and 44(D) of the Act, and to the relevant issues when considering an application for restoration to the medical register. He referred to the over-arching objective to which the
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Tribunal should have regard when considering the application. He acknowledged that there was an evidential burden on Dr Emanuel to persuade the Tribunal that he was fit to practise medicine in the UK. He also referred the Tribunal to the ‘Guidance’.

The Tribunal’s Approach

50. The Tribunal has taken account of all the evidence, both oral and documentary, together with the submissions made by Mr Rose and those made by Dr Emanuel.

51. In reaching its decision and throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Emanuel’s interests with the public interest. In so doing, the Tribunal had regard to the over-arching objective as set out in the Act namely the protection of the public. This involves the pursuit of the following objectives:

   a. to protect, promote and maintain the health, safety and wellbeing of the public
   b. to promote and maintain public confidence in the medical profession
   c. to promote and maintain proper professional standards and conduct for members of that profession.

52. The Tribunal has given careful consideration to all the circumstances of Dr Emanuel’s case, in particular, the matters set out in paragraph ten of the Guidance, which provides:

   'The Tribunal will consider a number of factors, including the following:

   a. The circumstances that led to erasure.
   b. The reasons given by the previous Panel for the decision to direct erasure.
   c. Whether you have any insight into the matters that led to erasure.
   d. What you have done since your name was erased from the register.
   e. The steps you have taken to keep your medical knowledge and skills up to date and the steps you have taken to rehabilitate yourself professionally and socially.'
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53. The Tribunal reminded itself that there is no automatic right for a practitioner to be restored to the Register and the onus is on Dr Emanuel to demonstrate that he is fit to practise and is suitable to be restored to the Register. The Tribunal was also mindful that it has no power to restore Dr Emanuel’s name to the Register with conditions or to restrict or limit his registration in any way.

The Tribunal’s Decision

54. The Tribunal bore in mind that Dr Emanuel’s application to be restored to the medical register appears to have been made without any assistance. In these circumstances, the Tribunal has given due weight to the evidence adduced by Dr Emanuel in support of his application. However, the Tribunal is mindful that the erasure followed multiple findings of dishonesty. The Tribunal is obliged to consider whether Dr Emanuel has provided sufficient evidence to demonstrate to the Tribunal that he has insight into the matters which caused the 2007 Panel to erase his name from the medical register and that he has taken steps to remediate his misconduct.

55. The Tribunal noted that the findings of the 2007 Panel fell into a number of categories. The Tribunal has noted that they include the following:

1. Dr Emanuel’s failure to provide and arrange cover for his absence from his practice in Belfast, both when he was undertaking locum positions in England in September 2003 and when attending an interim orders hearing in November 2004. There were findings of dishonesty in respect of his attending locum appointments in England, as Dr Emanuel was remunerated for work at his practice in Belfast which he did not carry out, and in respect of which he provided no cover.

2. His treatment and care of Patient A. Essentially this arose out of his failure to attend Patient A when he was working as a Primecare locum doctor. He was made aware that Patient A, who was terminally ill, was in distress. He failed to respond appropriately.

3. His failure to deal with complaints arising out of the treatment and care of Patient A.

4. His failure to fulfil a locum commitment with Primecare by not working the final part of a shift in early November 2003 and insisting that he be taken to the airport to return to Belfast.

5. His inaccurate and dishonest completion of application forms.

56. The Tribunal first considered whether it should have ongoing concerns about Dr Emanuel's clinical performance. It formed the view that this case did not concern clinical performance. The suffering of Patient A was not occasioned by Dr Emanuel’s inability to care for him, but on account of his failure to attend him. Dr Emanuel has provided evidence which shows that he has been working in Nigeria since 2012, when he was first awarded a license to practise by the Nigerian Medical and Dental Council. The Tribunal noted that each year, having obtained the required twenty
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CME points, Dr Emanuel has been awarded a licence to practise, the last being in 2018. Dr Emanuel told the Tribunal that he had received no complaints about his clinical practice in Nigeria. The Tribunal has taken into account his oral evidence that he obtained a certificate of good standing from the Nigerian Medical Council in October 2018. Also in his evidence, Dr Emanuel told the Tribunal that he was willing to return to a clinical role where his work would be supervised and that he would seek to have a mentor who could guide and monitor his work.

57. The Tribunal is satisfied that there are no concerns about Dr Emanuel’s clinical performance which should cause it to reject his application for restoration.

58. So far as his failure to provide and arrange cover is concerned, the Tribunal noted the circumstances which prevailed at Dr Emanuel’s practice in Belfast in September 2003, as set out in his evidence and submissions. It recognised that he was a doctor endeavouring to cope with significant and challenging financial and security problems and that he had identified a solution to both, namely undertaking rewarding locum appointments in England. However, the Tribunal cannot ignore the fact that Dr Emanuel did not express full and proper recognition that those problems were causative of his failure to provide care for his patients in accordance with his contractual commitments as a Belfast GP. He explained that, as a matter of practicality, he could remove himself from his practice in Belfast and arrange the minimum of cover. He did not appear to understand that by doing so he was behaving dishonestly and not acting in accordance with his patients’ best interests. Likewise, so far as his failure to arrange cover when he was attending an interim orders tribunal hearing, he seemed not to acknowledge the extent of his failure to care for his patients by simply closing the surgery.

59. The findings of the 2007 Panel in regard to his caring for his Belfast patients do not reflect well on Dr Emanuel’s commitment to them. It therefore behoved Dr Emanuel to demonstrate and acknowledge that he failed his patients to a gross extent in this regard. He did not do so. The Tribunal considers that proper attention to his shortcomings in relation to this area of his practice, and development of insight, could result in Dr Emanuel remediating his deficiencies. However, the Tribunal has found that, at the present time, Dr Emanuel has insufficiently addressed his deficiencies.

60. Dr Emanuel’s failure to fulfil the locum commitment with Primecare was a reflection of his failure to deliver care for his patients in Belfast which the Tribunal has already considered. Dr Emanuel placed his own needs first and did not sufficiently consider those of his patients. The Tribunal repeats its observations that this deficiency is remediable, but that Dr Emanuel has not provided it with sufficient evidence to demonstrate that he has remedied it. There was, likewise, an ongoing lack of proper insight into the way he let his patients down.
61. The balance of the case which was found proved against Dr Emanuel largely related to his dishonesty when completing application forms between about March 2004 and July 2005. It is right to observe that Dr Emanuel did not, before this Tribunal, properly acknowledge his dishonesty in this regard. He sought to explain it by informing the Tribunal that he had understood that detail relating to the complaints about him would be explained by others. This Tribunal does not go behind the determination of the 2007 Panel. In circumstances where Dr Emanuel does not acknowledge his dishonesty, and does not seek to explain that dishonesty, the Tribunal cannot find that he has developed insight into it, nor that he has remediated it. The Tribunal acknowledges that Dr Emanuel’s dishonest activity in seeking to obtain or maintain employment through his application forms is likely to have been borne of the considerable pressure to which he was subject in his practice in Belfast. However, in the absence of acceptance and recognition of his dishonesty and a proper explanation for it, the Tribunal cannot find that he has developed insight or that he has remediated it.

62. The Tribunal has given careful attention to the manner in which Dr Emanuel presented his application for restoration. There was an absence of proper preparation for that application. This was a case which called for serious and profound reflection on Dr Emanuel’s part, preferably in written form detailing the respects in which he has fallen short of the standards to which he should have adhered as a member of the medical profession. It should have explained why he fell short and the insight which he has developed and what he has done to address the shortcomings.

63. The Tribunal accepted that, when Dr Emanuel gave oral evidence, he was sincere in his contrition for his actions. However, it was of the view that his insight was only just beginning to develop.

64. The Tribunal’s obligation is to consider whether Dr Emanuel is fit to practise in the UK at the present time, bearing in mind the over-arching objective. Dr Emanuel has not satisfied it with the material and the submissions which he has made. Had he embarked upon this application with more care and thought and developed proper reflection into how he has failed to comply with the requirements of being a doctor, there may have been some prospect of his application succeeding. The Tribunal is not of the view that restoration to the medical register is necessarily out of the question in the future.

65. Accordingly, the Tribunal has determined to refuse Dr Emanuel’s application.

66. This case is concluded.
ANNEX A – 05/06/2019
Service and Proceeding in Absence/Application to participate via Videolink

Service

1. At the outset of the hearing, Dr Emanuel was neither present nor represented. The Tribunal has considered whether notice of this hearing has been properly served upon Dr Emanuel in accordance with Rules 15 and 40 of the General Medical Council (Fitness to Practise) Rules 2004 (the Rules) and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended). In so doing, the Tribunal has taken into account all the information placed before it, together with submissions made by Mr Christopher Rose, Counsel, on behalf of the GMC.

2. Mr Rose drew the Tribunal's attention to:
   (i) a screenshot of the GMC record where Dr Emanuel had registered his address;
   (ii) the Notice of Hearing (NOH) issued by the MPTS dated 3 May 2019. In this, the arrangements for this hearing were clearly set out including that the hearing may proceed in Dr Emanuel’s absence. This was also sent to the email address provided by Dr Emanuel;
   (iii) an email relay message received dated 3 May 2019, which stated 'Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server';
   (iv) the Royal Mail Track and Trace receipt which showed that the NOH was collected from Belfast Bangor DO at 11:01 on 5 May 2019 by a person whose surname is '[I]';
   (v) the MPT Attendance Form completed by Dr Emanuel.

3. Mr Rose submitted that this evidence demonstrates that the NOH has been served upon Dr Emanuel.

4. Having considered all the evidence, the Tribunal is satisfied that the Notice was drafted in proper form and that delivery was attempted no later than 28 days before today’s date. Accordingly the Tribunal is satisfied that Notice of this hearing has been properly served upon Dr Emanuel, in accordance with Rules 15 and 40 of the Rules.
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6. The Tribunal was made aware that Dr Emanuel has submitted a written application to participate in this hearing via Videolink. The Tribunal determined to consider Dr Emanuel’s application, the basis of this being that if the Tribunal were to allow his application, he would be deemed to be present. For this purpose, the Tribunal invited Dr Emanuel via Videolink to make submissions as to why he should be allowed to participate in the proceedings via Videolink.

7. Dr Emanuel referred the Tribunal to his email dated 5 June 2019 in which he stated:

‘I don’t have money to attend in Manchester, though it would be better if I let MPTS see me talking reasoning, than just not turn up’ [sic].

8. Mr Rose submitted that, although the application had been made a bit late in the day, the GMC was neutral on this matter.

9. The Tribunal had regard to Dr Emanuel’s email. It took into account that he is currently working in Nigeria, and that he cannot afford to travel to the UK to attend this hearing in person. The Tribunal also took into account that when Dr Emanuel made his oral application to the Tribunal, the Videolink connection was very good.

10. The Tribunal has balanced Dr Emanuel’s interests, including fairness to him, against the public interest. It was satisfied that the reasons provided by Dr Emanuel for not attending this hearing in person are sufficient. It considered that it is in the interests of justice to allow Dr Emanuel to participate in these proceedings. It therefore determined to grant Dr Emanuel’s application.

11. As a consequence of the Tribunal’s decision, Dr Emanuel is considered to be present in these proceedings.