

PUBLIC RECORD**Dates:** 03/03/2025 - 20/03/2025

Doctor: Dr Herjyot DHARNI

GMC reference number: 7177173

Primary medical qualification: MB BS 2011 Imperial College London

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

Summary of outcome

Suspension, 8 months.
Review hearing directed
Immediate order imposed

Tribunal:

Medical Tribunal Member (Chair)	Mrs Aaminah Khan
Lay Tribunal Member:	Mr Mark O'Brien
Registrant Tribunal Member:	Dr Frances Burnett

Tribunal Clerk:	Miss Racheal Gill
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Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Mr Stephen McCaffrey, Counsel
GMC Representative:	Mr Ryan Donoghue, Counsel

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.

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 - 14/03/2025

1. This determination will be handed down in private. However, as this case concerns Dr Dharni's misconduct a redacted version will be published at the close of the hearing.

Background

2. Dr Dharni qualified with MBBS at Imperial College London in 2011. Prior to the events which are the subject of the hearing, Dr Dharni completed her foundation training at hospitals in London and Oxford before starting core surgical training in London. Following that training, Dr Dharni started a trust grade registrar post at a hospital in London, before then moving to Birmingham to work at the Queen Elizabeth Hospital in a role equivalent to a trust grade registrar. After a period of work in Chester and then at the Birmingham Children's Hospital, her subsequent posts were generally ad hoc locum positions.

3. The Tribunal will inquire into the allegation that, between 17 May 2019 and 11 October 2021, Dr Dharni worked for Health Harmonie Ltd under a Practising Privileges Contract and failed to inform the GMC or Health Education England West Midlands ('HEEWM') of this work, when required to do so. It is further alleged that Dr Dharni was late for clinics when working for Health Harmonie on a number of occasions. It is also alleged that, between 29 January and 19 February 2020, Dr Dharni applied to join the HEEWM's Plastic Surgery training programme at level ST3 and failed to disclose that she was at that time subject to a GMC fitness to practise investigation and gave false information in her application regarding being on XXX leave. After being appointed onto the training programme and subsequently allocated to a hospital in Stoke, it is alleged that Dr Dharni falsely claimed to colleagues in June 2020 that she had been informed by the National Selection Team that

she had been permitted to remain in a Birmingham hospital, when that was not the case. It is alleged that Dr Dharni's actions were dishonest.

4. It is further alleged that, on 6 September 2021, when covering a shift at Queens Elizabeth Hospital ('QEH') Birmingham, Dr Dharni left the hospital early without informing colleagues, leaving a FY2 doctor unsupported, was uncontactable during the shift when a patient required an emergency procedure and left her bleep unattended without its battery.

The Outcome of Applications Made during the Facts Stage

5. Following the closing of the GMC's case, Mr McCaffrey, Counsel on behalf of Dr Dharni, made an application under Rule 17(2)(g) of the Rules in relation to parts of the Allegation. Mr McCaffrey submitted that Dr Dharni had no case to answer in relation to paragraphs 1.b, 3.d and 7.a, 7.b and 7.c of the Allegation. Mr Donoghue, on behalf of the GMC, opposed the application. The Tribunal determined that Dr Dharni had no case to answer in respect of paragraphs 1.b, 3.d and 7.b of the Allegation. The Tribunal's full decision on the application is included at Annex A.

The Allegation and the Doctor's Response

6. The Allegation made against Dr Dharni is as follows:

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

1. Between 17 May 2019 and 11 October 2021 you carried out work for HealthHarmonie Ltd ('HH Ltd') under a Practising Privileges Contract and you:
Admitted and found proved
 - a. failed to declare your work to:
 - i. the GMC in your completed Work Details Form dated 18 May 2021;
Admitted and found proved
 - ii. Health Education England West Midlands ('HEEWM');
Admitted and found proved
 - b. ~~were late for clinics which were due to commence between 09:00 and 09:30 on the dates as set out in Schedule 1.~~
Withdrawn under successful 17(2)(g) application

2. Between 29 January 2020 and 19 February 2020, you submitted an application to HEEWM for its Plastic Surgery training programme at level ST3 ('the Application') in which you:
- a. failed to disclose that you were subject to an investigation into your fitness to practise which was opened by the General Medical Council on 5 July 2019 ('the GMC investigation') in that you responded 'No' to the question 'Fitness to Practise 07 Investigation Regulatory Body';
Admitted and found proved
 - b. stated that you were on XXX leave between 31 January 2018 and 4 August 2020.
Admitted and found proved
3. At the time of completing the Application you knew that:
- a. you were subject to the GMC investigation;
To be determined
 - b. you had not been on XXX leave between 31 January 2018 and 4 August 2020;
Admitted and found proved
 - c. you had carried out locum work at:
 - i. UHCW between 23 April 2018 and 22 June 2018;
Admitted and found proved
 - ii. Birmingham Children's Hospital between January 2019 and December 2019;
Admitted and found proved
 - iii. Russell Halls Hospital between November 2019 and approximately February 2020;
Admitted and found proved
 - ~~d. your contract of employment at UHCW had been terminated early with immediate effect due to your:~~
 - ~~i. late attendance;~~
Withdrawn under successful 17(2)(g) application
 - ~~ii. frequent cancelling of shifts;~~
Withdrawn under successful 17(2)(g) application
 - ~~iii. providing short notice when cancelling on-call commitments without justification.~~
Withdrawn under successful 17(2)(g) application

4. On:
- a. 22 June 2020 in an email to Dr A you stated *'I have been placed at Stoke for August but I applied for special circumstances and it was accepted for me to remain in Birmingham. I was wondering if it is possible to be placed in the Birmingham hospitals?'*;
Admitted and found proved
 - b. 23 June 2020 in an email to Dr A you stated the information as set out in Schedule 2;
Admitted and found proved
 - c. 30 June 2020 in a virtual meeting with Mr B and Dr A you stated that you had discussed with the National Selection Team the need for you to be posted in Birmingham and that this had been accepted by them, or words to that effect.
Admitted and found proved
5. You knew that you had been approved for pre allocation to the West Midlands region only and not to a specific location within that region at the time of:
- a. sending the emails as set out at paragraphs 4.a. and 4. b;
To be determined
 - b. attending the meeting as set out at 4.c.
To be determined
6. Your conduct at:
- a. paragraph 2. a. was dishonest by reason of paragraph 3. a;
To be determined
 - b. paragraph 2. b. was dishonest by reason of paragraphs 3. b. 3. c. and ~~3. d~~;
To be determined
 - c. paragraphs 4. a. and 4. b. was dishonest by reason of paragraph 5.a;
To be determined
 - d. paragraph 4. c. was dishonest by reason of paragraph 5. b.
To be determined
7. On 6 September 2021 you were covering a shift as a locum Specialist Registrar in Plastics at QEH Birmingham and were scheduled to cover the shift from 20:00 on 6 September 2021 until 07:00 on 7 September 2021 and you:
- a. left QEH Birmingham earlier and sometime between 04:30 and 06:00 on 7 September 2021 without informing your colleagues and leaving the FY2 Dr C

who was new in Burns and Plastics unsupported;

To be determined

- b. ~~were uncontactable during the shift which resulted in colleagues in Trauma and Orthopaedics being unable to contact you regarding a patient who required an emergency procedure;~~

Withdrawn under successful 17(2)(g) application

- c. left your bleep unattended in the seminar room without its battery.

To be determined

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

The Admitted Facts

7. At the outset of these proceedings, Dr Dharni made admissions through her counsel, Mr McCaffrey, to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical 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. A partial admission was indicated in respect of paragraph 7.a, in that it was accepted that Dr Dharni left the hospital building before the end of her shift, but the remainder of the paragraph was denied. As this paragraph was not admitted in its entirety, it was not announced as being found proved.

The Facts to be Determined

8. In light of Dr Dharni's response to the Allegation made against her the Tribunal is required to determine whether Dr Dharni knew at the time of completing the Application that she was subject to the GMC investigation. In addition, whether she knew that she had been approved for pre allocation to the West Midlands region only and not to a specific location within that region (Birmingham) at the time of sending the emails as set out at paragraphs 4.a. and 4. b and attending the meeting as set out at 4.c.

9. The Tribunal is also required to determine paragraphs 6.a, 6.b, 6.c, and 6.d of the Allegation, as to whether Dr Dharni's actions in the respects set out in those sub-paragraphs were dishonest. The Tribunal is also required to determine whether Dr Dharni left QEH Birmingham earlier than scheduled without informing her colleagues and leaving the FY2 Dr C, who was new in Burns and Plastics, unsupported. In addition, it is required to determine whether she left her bleep unattended in the seminar room without its battery.

Witness Evidence

10. The Tribunal received oral evidence on behalf of the GMC from the following witnesses:

- Ms D, Operational and Commercial Director for HealthHarmonie, by video link. Together with witness statement 25 September 2023.
- Mr E, Operations and Performance Manager at University Hospitals Coventry and Warwickshire NHS Trust, by video link. Together with witness statement dated 30 June 2022.
- Dr F, Junior Specialist Doctor Higher at Queen Elizabeth Hospital Birmingham at the time of events, by video link. Together with witness statement dated 28 November 2022.

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

- Dr A, Consultant Burns and Plastic Surgeon at University Hospitals Birmingham NHS Foundation Trust, dated 9 August 2021 and supplemental witness statement dated 25 March 2022 and 13 November 2023.
- Professor G, Consultant Plastic and Reconstructive Surgeon at University Hospitals Coventry and Warwickshire NHS Trust, dated 22 September 2022.
- Mr H, Investigations Officer within the GMC Regional Investigation Team ('RIT') at the time of events, dated 9 November 2023 and supplemental witness statement dated 19 February 2025.

12. Dr Dharni provided her own witness statement dated 21 January 2025, together with four supplemental witness statements dated 2 March 2025, 3 March 2025, 4 March 2025 and 5 March 2025. Dr Dharni also gave oral evidence at the hearing.

Documentary Evidence

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

- Dr Dharni's Application form submitted to Health Education England ('HEE') for Plastic Surgery (LAT3 ST).
- Various emails and notes of telephone calls between Dr Dharni and the GMC, various dates 2019-2022.
- Form R completed by Dr Dharni.

- DATIX form completed by Dr F.
- Fitness to Practice referral form from HEEWM to the GMC enclosing: application form, meeting notes and letters, dated 24 March 2021.
- Various correspondence produced by Dr Dharni relating to the Allegations, including WhatsApp messages and call data between her and Dr C.

The Tribunal's Approach

14. The Tribunal accepted the legal advice from the Legally Qualified Chair (LQC).

15. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests entirely on the GMC and it is for the GMC to prove the Allegation. Dr Dharni does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e., whether it is more likely than not that the alleged events occurred. The Tribunal were advised on the guidance from the case of *Byrne v General Medical Council* [2021] EWHC 2237 (Admin), that there is only one standard of proof, namely the balance of probabilities, even where the Allegation is serious. However, the Tribunal, subject to the particular circumstances of the case, are entitled to take into account the inherent probability of an event occurring in determining whether an allegation has been proved to the requisite standard, which goes to the quality of the evidence.

16. The Tribunal had regard to the principles in *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin) when assessing the appropriate weight to give hearsay evidence.

17. The Tribunal bore in mind that reasonable inferences can be drawn from the evidence, using common sense, but the Tribunal must not speculate on matters that it has not heard evidence about or speculate about what other evidence might have been called. To draw such an inference, it must be the most likely inference in the circumstances.

18. Where relevant to its decision-making process, the Tribunal will have regard to the test of dishonesty set out in *Ivey v Genting Casinos (UK) Limited (t/a Crockfords Club)* [2017] UKSC 67, which in summary is:

1. *The Tribunal must first ascertain (subjectively) the state of the individual's knowledge or belief as to the facts. The reasonableness of the belief is a matter of evidence going to whether she genuinely held the belief, but it is not a requirement that the belief must be reasonable.*

2. *Secondly, the Tribunal must then consider whether that conduct was dishonest by the (objective) standards of ordinary and honest people. There is no requirement that the individual must appreciate that what they have done was, by those standards, dishonest.*

19. The Tribunal also took account of the good character direction provided by the LQC in relation to Dr Dharni and how Dr Dharni's good character was relevant to her credibility and propensity, of how likely it is that she has acted as alleged. It had no regard to any matters relating to character that it had heard purely by way of background.

The Tribunal's Analysis of the Evidence and Findings

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

21. The Tribunal decided to consider the alleged matters chronologically in order to enable it to form a view of Dr Dharni's state of knowledge and belief at the relevant points, rather than the strict order in which they appear in the Allegation.

Paragraph 3a

22. The Tribunal considered whether at the time of completing the ST3 Application form, which was at some point between 29 January 2020 and 19 February 2020, Dr Dharni knew that she was subject to the GMC investigation.

23. Dr Dharni admitted that she failed to disclose that she was subject to a GMC investigation in her Application, in that she responded 'No' to the question on the Application form that was headed 'Fitness to Practise 07 Investigation Regulatory Body'.

24. Dr Dharni gave evidence that her failure to disclose this information stemmed from her misunderstanding of the impact that the closure of a police investigation had upon the GMC case, as well as her lack of understanding of GMC processes. In her witness statement, she said that *"The GMC referral had been open pending the outcome of the police investigation. When I received confirmation in November 2019 that the police investigation was closed with no further action, I mistakenly believed that this meant the end of the GMC involvement."* In her oral evidence, Dr Dharni now recognised in hindsight that her belief in this respect was wrong. When Dr Dharni was questioned during her evidence about the detail contained within correspondence between her and the GMC regarding the status of the GMC investigation, she maintained that she had understood that the GMC was referring to making

preliminary enquiries and that her understanding was that this had not progressed to a full investigation.

25. The Tribunal carried out a careful review of the correspondence that was before it, between Dr Dharni and the GMC, in the months and weeks leading up to Dr Dharni submitting her application. The Tribunal considered that this correspondence demonstrated that Dr Dharni was provided with several clear explanations of the position that the GMC investigation was separate to the police investigation and was provided with confirmation from the GMC that its investigation was ongoing despite the closure of the police investigation in November 2019.

26. On 11 November 2019, Dr Dharni emailed the GMC *“I wanted to let you know that the police have cleared me. I wanted to find out when the GMC investigation will be clearing me please...”*. In the same email Dr Dharni had referred to how she hoped it would be soon, as it was causing her problems at work. The GMC responded via email on 12 November 2019 *“Thank you very much for letting me know that.... We aren’t able to close our investigations purely because the police have closed theirs, we need to consider all the evidence in the case and establish that there are no misconduct allegations before we can conclude our investigation. Unfortunately until I have seen the police material, I can’t say how long our investigation would take - although we will do our best to complete it as quickly as we can.”* (underlining emphasis added).

27. In an email to the GMC dated 12 November 2019, Dr Dharni asked again if the GMC could ‘clear me quickly’ because a hospital that she worked for was refusing to employ her. She stated that *“I informed them that I was cleared by the police and that it is non clinical and not work related but the hospital still did not wish to continue employing me whilst being under GMC investigation.”* Following an email from Dr Dharni to the GMC on 9 December 2019 asking for updates, the GMC responded to Dr Dharni on 10 December 2019: *“...We have made a request for information from West Midlands Police under the Medical Act and they have been asked to provide this by 2 January. Once we receive the material we will review it and decide whether there is anything that we need to investigate further. Unfortunately whilst their investigation was ongoing the police would not give us any details of the allegations, and so we have to await their file before we can progress our investigation any further. I do appreciate that this must be quite a difficult time and I attach details of the Doctor Support Service which is staffed by doctors who provide free support to other doctors undergoing investigation, you might find it helpful to contact them...”*. (underlining added)

28. Following another email from Dr Dharni to the GMC for an update on 3 January 2020 (the day after the deadline the GMC had given the police for the information request), the

GMC respond on 8 January 2020: *“I do understand that this must be a very difficult time for you but I need to review the information carefully before I can confirm what will happen next with our investigation. In cases where the police do not consider the evidence meets the criminal threshold there can still be allegations which might affect a doctor’s fitness to practise. Having said that, whilst there is still an investigation open you do not currently have any restrictions and I would be happy to confirm this to any employer or prospective employer if you want to give them my details and have them contact me.”* (underlining added)

29. In addition to the above emails, the Tribunal noted that when Dr Dharni first became aware of the GMC opening a case regarding her, she called the GMC and a telephone note recorded a discussion regarding the process and potential outcomes. The Tribunal considered that the correspondence between Dr Dharni and the GMC was compelling evidence of what Dr Dharni understood the position to be at the time. Having regard to the above correspondence, the Tribunal considered that the GMC had repeatedly and clearly stated, on several occasions, that its investigation was separate to the police investigation and still open despite the police closing theirs. It was of the view that the GMC could not have made it clearer to Dr Dharni that despite the police closing their investigation in November 2019, the GMC’s case was still ongoing as it needed to review if there were any misconduct concerns. The Tribunal further noted that this correspondence with the GMC took place only weeks before Dr Dharni completed her application.

30. The Tribunal had regard to the fact that the email chain was not simply proof of GMC emails being sent and received but that Dr Dharni had been actively engaging with the GMC by responding to the emails with her own requests for updates and queries. The Tribunal considered it significant that Dr Dharni used the terminology of ‘GMC investigation’ in her emails to the GMC such as *“I wanted to find out when the GMC investigation will be clearing me please”* on 11 November 2019 and *“the hospital still do not wish to continue employing me whilst being under GMC investigation”* on 12 November 2019. It considered that based on her engagement with the GMC, this was compelling evidence that she knew that the GMC investigation remained ongoing.

31. The Tribunal considered the evidence given by Dr Dharni as to her state of mind, which was expanded upon in her oral evidence. When questioned on the above correspondence, the Tribunal considered that Dr Dharni’s explanations were not credible. She sought to explain her understanding of the GMC’s position as undertaking some form of ‘preliminary enquiry’. However, the Tribunal did not consider that this was consistent with an ordinary reading of the correspondence, which it considered made the position plain, nor with Dr Dharni’s own language and terminology used in the correspondence.

32. Furthermore, the Tribunal did not accept Dr Dharni's evidence that she had misunderstood and lacked understanding of GMC processes and relied on the reassurances by her colleagues who mistakenly had told her wrong information. The Tribunal bore in mind that this was a national application form for a Higher Training post to eventually become a consultant plastic surgeon and it was important that it was accurately completed. The ongoing GMC case was clearly of concern to Dr Dharni throughout this period, so it would likely have come to Dr Dharni's mind when answering the relevant question. Rather than taking advice from colleagues, Dr Dharni could have sought clarification from the GMC, when completing the form, with whom she had been in regular communication at the time and did not do so.

33. The Tribunal also did not consider that it was relevant that Dr Dharni had declared the GMC investigation in a later form that she completed to start working at the Stoke Hospital that she had been assigned to. This later form was completed after she had been successfully appointed, through a competitive process, to the training program and served a different purpose. In addition, the later form was completed after further developments, in that an IOT hearing had been arranged and Dr A had started to raise concerns regarding Dr Dharni's completion of the application form. The Tribunal did not consider that a later declaration was relevant to the state of mind of Dr Dharni at the time of making the initial application.

32. Taking the evidence as a whole, the Tribunal concluded that Dr Dharni had known she was subject to the GMC investigation at the time of completing the Application.

33. Accordingly, the Tribunal determined that paragraph 3b of the Allegation was proved.

Paragraph 6a

34. The Tribunal considered whether Dr Dharni's conduct at paragraph 2.a was dishonest by paragraph 3.a.

35. It has been admitted by Dr Dharni that she failed to disclose that she was subject to a GMC investigation at the time of completing the Application and the Tribunal is satisfied, as set out above, that at the time of doing so she knew she was subject to a GMC investigation.

36. The Tribunal noted that in Dr Dharni's oral evidence, she stated that she did not consider this section of the Application was important, as it was not given to the interviewing panel. The Tribunal was of the view that this was not supported by any evidence and considered that this section of the form, which also dealt with matters such as criminal conviction, was likely to play a part in the recruitment process, given that it was included in

the form and concerned important matters. The Tribunal considered that it should be clear that any sort of investigation by a regulator would be important, and doctors must be trusted to complete such forms openly and accurately.

37. The Tribunal considered that by Dr Dharni knowingly stating 'No' to the question on the Application form relating to a fitness to practise investigation by a regulatory body, when she knew that she was still subject to the GMC investigation, was dishonest and would be clearly considered to be dishonest by the objective standards of ordinary decent people. The Tribunal was satisfied on the basis of the evidence before it that Dr Dharni's conduct was a deliberate omission because she wished to not disclose the GMC investigation as it may have affected the outcome of her application.

38. The Tribunal determined that an ordinary decent person would, in the knowledge of the full circumstances of this case, consider Dr Dharni's actions - in failing to disclose that she was subject to a GMC investigation when she knew she was - to be dishonest.

39. The Tribunal therefore found paragraph 6a of the Allegation proved.

Paragraph 6b

40. The Tribunal considered whether Dr Dharni's conduct at paragraph 2b was dishonest by paragraph 3b and 3c.

41. Dr Dharni had admitted that at the time of completing the Application, she knew that: she had not been on XXX leave between 31 January 2018 and 4 August 2020; and that she had carried out locum work at three hospitals between April 2018 and approximately February 2020. There is no suggestion that Dr Dharni had recourse to public funds during this period and no allegations have been made of that nature.

42. It was Dr Dharni's evidence that the format on the Application form was that there was a drop-down menu containing a list of potential answers in addition to some space to insert supplementary text. Dr Dharni had input in the free text box 'XXX leave – XXX.'

43. The Tribunal heard evidence from Dr Dharni regarding her difficult personal circumstances at the time of completing the Application. XXX. Therefore, Dr Dharni considered that XXX leave was the closest way to succinctly explain her highly sensitive and personal circumstances on a form, which she did not want to go into detail of on a form but could explain further in interview. She accepted when questioned that there was some form of free text box and that she could have input more detail or described it differently, but at

the time she felt XXX leave was the best way to describe her circumstances. She told the Tribunal that she has input XXX leave on previous application forms and that she intended to discuss her personal circumstances in more detail at interview.

44. Applying the two stage test in *Ivey*, the Tribunal considered that Dr Dharni knew when she wrote XXX leave on the form that this was not factually accurate in that she had not XXX and that she had not been on a period of XXX leave. In addition, she had been working, albeit on an ad hoc basis, in three locum posts, which is not what would be expected if someone was on XXX leave. The Tribunal considered that by Dr Dharni stating that she was on a long period of XXX leave (XXX) this long gap would not likely be questioned during the recruitment process. The Tribunal applied the objective standards of ordinary decent people: would the ordinary decent person, with full knowledge of Dr Dharni's actions and the relevant surrounding circumstances, conclude that Dr Dharni's actions in this regard were dishonest? It concluded that they would objectively consider it dishonest.

45. In reaching this conclusion, the Tribunal had regard to Dr Dharni's difficult personal circumstances at the time that may have affected her judgement. It accepted that Dr Dharni was caring after XXX. It accepted that it was a challenging time for Dr Dharni and were sympathetic towards her. It considered it understandable that she did not want to disclose highly sensitive personal matters on an application form. However, given that there were free text options, it considered there were alternative and more accurate ways to describe that period of time such as 'XXX', 'carers leave', rather than 'XXX leave', which the Tribunal considered was misleading.

46. The Tribunal also bore in mind that XXX leave usually means that you are not working at all during that time. However, Dr Dharni has admitted that she carried out locum work during the period declared as XXX leave. It appreciated that there was no evidence of a requirement that Dr Dharni had to list every locum job she had completed. However taking the evidence as a whole, the Tribunal considered that inputting XXX leave was a deliberate decision to conceal the fact she was also working in these ad hoc locum roles. On her own evidence, Dr Dharni did not consider that these locum posts sufficiently contributed towards her application for a training post and did not reflect her career progression.

47. The Tribunal determined that an ordinary decent person would, in the circumstances of this case, consider Dr Dharni's actions – in stating that she was on XXX leave between 31 January 2018 and 4 August 2020 when she was not, and had carried out locum work during that time - to be dishonest.

48. The Tribunal therefore found paragraph 6b of the Allegation proved.

Paragraph 5a and Paragraph 5b

49. The Tribunal considered whether Dr Dharni knew that she had been approved for pre allocation to the West Midlands region and not to a specific location within that region at the time of: sending the emails as set out in paragraphs 4.a and 4.b; and attending the meeting as set out at 4.c.

50. The Tribunal received a photocopy of a completed Special Circumstances Form by Dr Dharni which along with other information, allows the applicant to *“provide details of the geographical region you are restricted to”* and Dr Dharni input *“Birmingham”*. The Tribunal also received a letter confirming that Dr Dharni’s special circumstances application was approved. Within that letter, it stated *“Please note that under the special circumstances process, you will be allocated to a region only. Some specialities are not able to give precise details of the location where you will work in the programme preference options...”*

51. The Tribunal took into account that the approved application letter did not make it clear that they were not granting Birmingham, but rather the West Midlands as a region. It considered that the letter could have been more specific and made what special circumstances had been granted clearer and it was understandable that the word ‘region’ can be ambiguous, especially when Dr Dharni had requested to be placed in Birmingham in her special circumstances application. It considered it was plausible that Dr Dharni took this letter at face value, and she interpreted that she had been granted Birmingham.

52. Therefore, the Tribunal concluded that the GMC had failed to discharge its evidential burden, and it was not satisfied that Dr Dharni knew that she had been approved for pre allocation to the West Midlands region only.

53. Accordingly, the Tribunal determined that paragraph 5a and 5b of the Allegation was not proved.

Paragraph 6c and Paragraph 6d

54. Having determined paragraph 5a and 5b not proved, there was no basis for finding 6c and 6d proved, therefore these paragraphs of the Allegation falls away.

55. Accordingly, the Tribunal determined that paragraphs 6c and 6d of the Allegation were not proved.

Paragraph 7a

56. On 6 September 2021 Dr Dharni was covering a shift as a locum Specialist Registrar in Plastics at QEH Birmingham and was scheduled to cover the shift from 20:00hrs on 6 September 2021 until 07:00hrs on 7 September 2021. It was not in dispute that the hospital had previously agreed that Dr Dharni could leave her shift at 07:00hrs rather than the usual time of 08:00hrs. The Tribunal considered whether Dr Dharni left QEH Birmingham earlier and sometime between 04:30hrs and 06:00hrs on 7 September 2021 without informing her colleagues and leaving the FY2 Dr C who was new in Burns and Plastics unsupported.

57. The Tribunal considered the way this paragraph of the Allegation has been framed and that there were three elements to this paragraph of the Allegation: (i) leaving QEH Birmingham sometime between 04.30hrs and 06.00hrs, (ii) without informing colleagues, and (iii) leaving the SHO unsupported.

58. The Tribunal took into account the partial admission from Dr Dharni to paragraph 7.a in that she accepted that she had left the hospital premises to go to on-call hospital accommodation, which was 10 minutes' walk away. It was accepted that the on-call accommodation was on hospital grounds. While the Tribunal noted there was no definitive evidence of what time Dr Dharni actually left the hospital ward, she accepted it was some time after 04:30hrs on the basis that was the last time a colleague reported seeing her in the hospital building. The Tribunal considered there was no evidence to suggest that leaving to go to on call accommodation was not permissible and Dr F accepted that this was allowed for the purposes of rest if booked with the hospital. Therefore, it considered it was reasonable for Dr Dharni to leave the ward to go to on call accommodation when she was not required to be on the ward.

59. Dr Dharni disputed the remainder of the paragraph, therefore the Tribunal was left to consider whether Dr Dharni had left without informing her colleagues and in doing so, left Dr C unsupported.

62. The evidence relating to Dr Dharni leaving the hospital without informing her colleagues was based upon a hearsay account of Dr C, who allegedly told Dr F at the handover that she had not seen Dr Dharni since about 02:00am on the morning of 7 September 2021. Dr F then filed a DATIX incident report, as he was concerned that Dr Dharni had left when still required. Therefore, it was the GMC's submission that this was indicative of Dr C being unaware of Dr Dharni's whereabouts. Dr Dharni's evidence was that while she did not inform Dr C immediately before leaving to go to on call accommodation, she did inform Dr C that she would be leaving at some point during conversations that took place earlier that evening. The Tribunal took into account that there was WhatsApp evidence

showing contact between Dr Dharni and the Dr C during the shift, both calls and messages, which indicated there was communication between them. The Tribunal was cognisant that Dr C had not been called to give evidence and that this was hearsay, which was not in a witness statement form, signed by a statement of truth. The evidence had not been effectively tested during the hearing and there were queries regarding how Dr C's account fitted with the WhatsApp evidence available. The Tribunal considered that there was insufficient evidence in this respect to find this part of the allegation proved.

60. The Tribunal accepted Dr F's evidence that Dr C was inexperienced and required support as she was new in Burns and Plastics. However, in respect of the evidence regarding Dr Dharni leaving the Dr C unsupported, again this was based upon the hearsay evidence of Dr C as relayed to Dr F. The Tribunal was again cognisant that Dr C was not a witness called to give evidence and this evidence was untested.

61. The Tribunal accepted that Dr Dharni provided support to Dr C during the shift. It considered that Dr Dharni was clearly contactable through evidence of WhatsApp communication between her and Dr C. Therefore, it considered if support was required after Dr Dharni had left the ward, Dr C could have contacted Dr Dharni, albeit through WhatsApp. The Tribunal considered there was insufficient evidence that Dr C was unsupported.

62. Therefore, the Tribunal concluded that the GMC had failed to discharge its evidential burden.

63. Accordingly, the Tribunal determined that paragraph 7a of the Allegation was not proved.

Paragraph 7c

64. The Tribunal considered whether Dr Dharni left her bleep unattended in the seminar room without its battery.

65. The Tribunal bore in mind the available evidence in respect of the unattended bleep. It was Dr Dharni's evidence that she had left the physical bleep in the handover room in the tray before she went to the on call accommodation. She denies that she left the bleep without its battery. Her evidence was that the bleep was covered by way of the switchboard having contact numbers and diverting calls to her mobile until 07:00hrs and that between 07:00hrs to 08:00hrs calls were diverted to Dr C. Effectively, the bleep was covered in that way rather than needing to hand over a physical bleep. The Tribunal received no evidence to contradict that. Dr F also gave evidence that use of mobile phones and WhatsApp was acceptable practice.

66. The Tribunal accepted Dr F's evidence that he checked several rooms until he found the bleep in the condition and location, namely without its battery in the seminar room and he did so around 08:00hrs when he arrived at his shift. However, it bore in mind that there was no evidence, including that of Dr F's, that demonstrates that Dr Dharni herself left the bleep there or took out the battery.

67. The Tribunal also took into account that there was a gap in evidence as to where the physical bleep was from 04.30hrs onwards when Dr Dharni had left it to 8:00hrs when Dr F said he found it. Given that gap, the Tribunal was not satisfied that Dr Dharni had left the bleep in the seminar room without its battery as there was a lack of direct evidence as to who left the bleep in the seminar room and who took the battery out.

68. Therefore, the Tribunal concluded that the GMC had failed to discharge its evidential burden.

69. Accordingly, the Tribunal determined that paragraph 7c of the Allegation was not proved.

The Tribunal's Overall Determination on the Facts

70. The Tribunal has determined the facts as follows:

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

1. Between 17 May 2019 and 11 October 2021 you carried out work for HealthHarmonie Ltd ('HH Ltd') under a Practising Privileges Contract and you:
Admitted and found proved
 - a. failed to declare your work to:
 - i. the GMC in your completed Work Details Form dated 18 May 2021;
Admitted and found proved
 - ii. Health Education England West Midlands ('HEEWM');
Admitted and found proved
 - b. ~~were late for clinics which were due to commence between 09:00 and 09:30 on the dates as set out in Schedule 1.~~
Withdrawn under successful 17(2)(g) application

2. Between 29 January 2020 and 19 February 2020, you submitted an application to HEEWM for its Plastic Surgery training programme at level ST3 ('the Application') in which you:
- a. failed to disclose that you were subject to an investigation into your fitness to practise which was opened by the General Medical Council on 5 July 2019 ('the GMC investigation') in that you responded 'No' to the question 'Fitness to Practise 07 Investigation Regulatory Body';
Admitted and found proved
 - b. stated that you were on XXX leave between 31 January 2018 and 4 August 2020.
Admitted and found proved
3. At the time of completing the Application you knew that:
- a. you were subject to the GMC investigation;
Determined and found proved
 - b. you had not been on XXX leave between 31 January 2018 and 4 August 2020;
Admitted and found proved
 - c. you had carried out locum work at:
 - i. UHCW between 23 April 2018 and 22 June 2018;
Admitted and found proved
 - ii. Birmingham Children's Hospital between January 2019 and December 2019;
Admitted and found proved
 - iii. Russell Halls Hospital between November 2019 and approximately February 2020;
Admitted and found proved
 - ~~d. your contract of employment at UHCW had been terminated early with immediate effect due to your:~~
 - ~~i. late attendance;~~
Withdrawn under successful 17(2)(g) application
 - ~~ii. frequent cancelling of shifts;~~
Withdrawn under successful 17(2)(g) application
 - ~~iii. providing short notice when cancelling on-call commitments without justification.~~
Withdrawn under successful 17(2)(g) application

4. On:
- a. 22 June 2020 in an email to Dr A you stated *'I have been placed at Stoke for August but I applied for special circumstances and it was accepted for me to remain in Birmingham. I was wondering if it is possible to be placed in the Birmingham hospitals?'*;
Admitted and found proved
 - b. 23 June 2020 in an email to Dr A you stated the information as set out in Schedule 2;
Admitted and found proved
 - c. 30 June 2020 in a virtual meeting with Mr B and Dr A you stated that you had discussed with the National Selection Team the need for you to be posted in Birmingham and that this had been accepted by them, or words to that effect.
Admitted and found proved
5. You knew that you had been approved for pre allocation to the West Midlands region only and not to a specific location within that region at the time of:
- a. sending the emails as set out at paragraphs 4.a. and 4. b;
Not proved
 - b. attending the meeting as set out at 4.c.
Not proved
6. Your conduct at:
- a. paragraph 2. a. was dishonest by reason of paragraph 3. a;
Determined and found proved
 - b. paragraph 2. b. was dishonest by reason of paragraphs 3. b. 3. c. and ~~3. d~~;
Determined and found proved
 - c. paragraphs 4. a. and 4. b. was dishonest by reason of paragraph 5.a;
Not proved
 - d. paragraph 4. c. was dishonest by reason of paragraph 5. b.
Not proved
7. On 6 September 2021 you were covering a shift as a locum Specialist Registrar in Plastics at QEH Birmingham and were scheduled to cover the shift from 20:00 on 6 September 2021 until 07:00 on 7 September 2021 and you:
- a. left QEH Birmingham earlier and sometime between 04:30 and 06:00 on 7 September 2021 without informing your colleagues and leaving the FY2 Dr C

who was new in Burns and Plastics unsupported;
Not proved

- b. ~~were uncontactable during the shift which resulted in colleagues in Trauma and Orthopaedics being unable to contact you regarding a patient who required an emergency procedure;~~
Withdrawn under successful 17(2)(g) application

- c. left your bleep unattended in the seminar room without its battery.
Not proved

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

Determination on Impairment - 19/03/2025

71. 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 before, Dr Dharni's fitness to practise is impaired by reason of misconduct.

The Evidence

72. The Tribunal has taken into account all of the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows.

73. Dr Dharni provided her own reflective statements and also gave oral evidence at the impairment stage of the hearing.

74. The Tribunal also received a witness statement from Dr Dharni's Responsible Officer, Professor J, dated 20 March 2024 and Dr Dharni's CPD certificate on Doctors with Probity: Healthcare Ethics and Standards, dated 17 March 2025.

Submissions

On behalf of the GMC

75. Mr Donoghue gave an overview of the law on misconduct and impairment, and emphasised the two-stage approach the Tribunal should take, namely that it should first

consider whether there has been serious misconduct and secondly, whether any misconduct found supported a finding of impaired fitness to practise.

76. In relation to the allegation, he categorised Dr Dharni's actions into the two following areas:

- (1) Firstly, Dr Dharni's dishonesty in the ST3 application form submitted in January – February 2020 (Allegation paragraphs 2(a) and (b), 3(a) – (c) and 6(a) and (b)).
- (2) Secondly, Dr Dharni's failure to declare her work with Health Harmonie (Allegation paragraphs 1(a)(i) and (ii)).

77. In relation to some admitted factual paragraphs of the Allegation, which related to the statements Dr Dharni made to Dr A regarding being allocated to Birmingham, rather than West Midlands (paragraphs 4(a), (b) and (c)), Mr Donoghue acknowledged that these bare facts could not amount to misconduct in isolation.

78. In relation to the two areas which the GMC considered did amount to misconduct, as set out above, Mr Donoghue submitted that Dr Dharni's actions included a number of serious departures from Good Medical Practice (2013 edition) ('GMP'). In particular, he highlighted paragraphs 1, 65 and 71 in GMP (listed below).

- (1) Dr Dharni's dishonesty in the ST3 application form submitted in January – February 2020.

79. Mr Donoghue submitted that any dishonesty on the part of Dr Dharni represented a serious breach of expected standards. He submitted paragraphs 65 and 71 of GMP were relevant.

80. Mr Donoghue submitted the following factors increase the seriousness of Dr Dharni's dishonesty:

- a) the dishonesty occurred in the course of Dr Dharni's professional practice;
- b) the dishonesty involved the submission of inaccurate information in an application form seeking to secure admission to a training programme and the application potentially led to Dr Dharni's application presenting more favourably;
- c) the dishonesty had the potential to impact upon Dr Dharni's colleagues, as the securing of a position on the training programme would invariably (if not otherwise justified or warranted) involve another candidate missing out; and

d) the dishonesty was repeated, in that there were two instances of dishonesty in the same application form (the failure to declare the GMC investigation and the declaration of XXX leave).

81. Mr Donoghue submitted the following factors as potentially reducing the seriousness of Dr Dharni's dishonesty:

- a) there is no evidence that Dr Dharni's dishonesty actually secured her a position on the training programme which she would not otherwise have secured; and
- b) Dr Dharni was under significant personal stresses at the time of submitting the application form, given the evidence the Tribunal have heard regarding Dr Dharni's personal life.

82. Mr Donoghue submitted that Dr Dharni's actions in dishonestly failing to declare an ongoing GMC investigation and incorrectly declaring a period of XXX leave, in a single application form, represented a serious and significant departure from the standards expected of doctors. Further, he submitted that such actions would be considered deplorable by fellow medical practitioners and would attract opprobrium. Mr Donoghue submitted that Dr Dharni's actions amount to serious professional misconduct.

(2) Dr Dharni's failure to declare her work with Health Harmonie (Allegation paragraphs 1(a)(i) and (ii)).

83. Mr Donoghue submitted that whilst dishonesty is not alleged in respect of these matters, the allegations admitted and found proved involved Dr Dharni submitting potentially misleading information again within important professional documentation.

84. Mr Donoghue submitted that in accordance with paragraph 71(a) of Good Medical Practice, it was Dr Dharni's responsibility to take reasonable steps to ensure that the information she provided to the GMC in the Work Details Form and to HEEWM in the Form R was accurate. He submitted that if Dr Dharni had taken reasonable steps, as she was expected to, it would have been apparent that she was required to disclose the Health Harmonie work on both the Work Details Form and the Form R. He submitted that if there had been any uncertainty on Dr Dharni's part, there were undoubtedly individuals available for Dr Dharni to contact (both at the GMC and at HEEWM) to clarify whether her Health Harmonie work should have been included on the forms.

85. Mr Donoghue submitted that the Work Details Form and Form R carried important purposes and by leaving out relevant information from both forms, Dr Dharni's actions had

the potential to lead to important regulatory and professional processes being conducted on an incomplete basis. He submitted that Dr Dharni's actions in this area of the case also amount to serious professional misconduct.

86. In respect of impairment, Mr Donoghue submitted any dishonest conduct on the part of a doctor is such that it has the potential to bring the profession into disrepute and undermine public confidence in doctors. Dealing with the issue of insight, he submitted that Dr Dharni has accepted wrongdoing in relation to the failure to declare the Health Harmonie work in the Work Details Form and the Form R, however no admissions were made in relation to the alleged dishonesty on the ST3 application form.

87. When considering Dr Dharni's written and oral evidence, Mr Donoghue observed the following:

- a) the reflective statement and evidence of remediation has all materialised since the Tribunal handed down its stage 1 determination, less than four days ago;
- b) whilst Dr Dharni has given oral evidence as to the journalling and other processes she has been undertaking since the allegations first arose, there is no documentary evidence to assist the Tribunal in understanding the nature of Dr Dharni's reflections and how such reflections have developed over time;
- c) the reflective statement only engages in a limited way with relevant principles from Good Medical Practice. Paragraphs 65 and 71, of the greatest relevance to this case, are not mentioned;
- d) the reflective statement does not deal with the failure to declare work for Health Harmonie;
- e) the remediation activities are also very limited and the only activity of real application to the allegations in this case is the probity course, completed yesterday;
- f) there is no reason why remediation activities could not have been engaged in sooner, even if allegations were to be contested; and
- g) there is equally no reason why a wider range of remediation activities could not have been considered.

88. Mr Donoghue submitted that the Tribunal will be required to consider whether it accepts Dr Dharni's evidence of reflection and remediation having been conducted over the past five years, or whether the evidence of insight and remediation now provided arises solely by consequence of the factual findings made by the Tribunal on Friday of last week. Whatever the position, he submitted that the evidence to support such insight and remediation remains very limited, at this stage.

89. In conclusion, Mr Donoghue submitted that a finding of impaired fitness to practise is required in this case to sufficiently protect and promote the second and third limbs of the Tribunal's overarching objective.

On behalf of Dr Dharni

90. Mr McCaffrey acknowledged that the allegations of dishonesty must amount to serious misconduct and a finding of impairment will likely follow and this is conceded by Dr Dharni. He invited the Tribunal to consider whether paragraph 1a of the allegation, which stands alone without associated dishonesty allegations, constituted serious misconduct. He also submitted that the remaining parts of paragraph 4 (facts admitted by Dr Dharni relating to her communications with Dr A) are not capable of constituting misconduct.

91. Mr McCaffrey submitted that while Dr Dharni accepted the findings of the Tribunal, she does not at this time, accept that she acted dishonestly. He asked the Tribunal to guard against making assumptions about this or about what might follow and relied on the case of *PSA v Doree [2015] EWHC 822 (Admin)* further appealed *[2017] EWCA Civ 319*. One of the general principles in this case is that "there are many reasons why a person denies guilt" and further "it is clear that the simplistic notion that contesting a case proves a lack of insight is wrong." Mr McCaffrey also referred the Tribunal to the case of *Sawati v General Medical Council [2022] EWHC 283 (Admin)* as being relevant to the issue of insight.

92. Mr McCaffrey submitted that Dr Dharni fully understands the importance of accuracy in forms and also the fact that the way she approached them and completed them was wrong. He submitted that the dishonesty allegation relates to a single application form and should be regarded in that context. This application was completed and submitted a significant period ago (January - February 2020) and there has been no evidence of repetition of the behaviour.

93. Mr McCaffrey submitted that Dr Dharni had significant personal pressures at the time and indeed for some time following this application. They were serious issues and clearly had a huge and lasting impact on her. He submitted the Tribunal may feel that these were an abnormal pressure on her during the time frame of this application and while not excusing dishonesty, must have had some impact on her.

94. Mr McCaffrey submitted that Dr Dharni made admissions to the facts before the hearing and indeed at the beginning of it. She has always accepted that entries she made were, in fact, misleading. He submitted that this is the beginning of the development of insight and due credit should be afforded this.

95. Mr McCaffrey submitted that neither dishonesty gained her a place on the training programme that would otherwise have been refused. Although the application form was completed in the course of her professional career, this is not a case where it occurred in clinical practice and there was not risk to patients – or of harm.

96. Mr McCaffrey referred to the stage 2 documents and submitted it was fair to acknowledge that these were not timely. However, given the case law and the position taken by Dr Dharni with respect to the dishonesty allegations this is understandable and should not prejudice Dr Dharni. He also submitted that the reflection document, whilst written recently, is neither rushed nor superficial. It is Dr Dharni's evidence that it is the culmination of much thought, discussion and journalling. He submitted her reflections focus on the allegations of dishonesty and this is entirely understandable in the circumstances. However, he submitted that it is not a recent epiphany and it is from years of thought from journalling and reflection. Mr McCaffrey submitted that the level of work completed since Friday is to be commended. It shows, as Dr Dharni said in evidence, an eagerness and willingness to engage. Mr McCaffrey submitted that whilst this may not be fully comprehensive or indeed complete, it is a genuine and commendable start.

97. Mr McCaffrey submitted that Dr Dharni's oral evidence was clear, she does recognise the importance of forms and the fault on her part in interpreting what she was told and/or making assumptions about it. He submitted she has clearly recognised the importance of documentation and the folly in committing to paper information in the hope she can elaborate and explain later. Mr McCaffrey submitted that Dr Dharni gave evidence about needing to change the way she operates, thinks and behaves. In her reflection she gave two examples of matters that pre-date the reflection and are evidenced in the bundle. He submitted that this is clear evidence of a process of development and changed action after the allegations in question in this case and before the completion of this reflection. He submitted this demonstrates learning which can only have come from reflection and insight – evidencing the long process that has led to this reflection.

98. Mr McCaffrey submitted Dr Dharni recognises that her approach to forms was simply not correct and that this needs to be taken as seriously as all her other professional work. She recognises the importance of whom she verifies information with. He submitted it showed a marked difference to the approach she had taken in 2020. She said in oral evidence: *"I might have reasons and excuses for how this happened but that is just wrong."* He submitted that this is an explicit acceptance and recognition of fault and failing on her part.

99. Mr McCaffrey submitted that Dr Dharni was ready to concede that her behaviour would undermine the trust the public have in her and the wider profession. She recognised that she, and doctors generally, are held to a higher standard and that she should not have done anything which risks undermining that trust. She gave this evidence knowing the import and impact of what she was saying. He submitted that this is a clear insight into her true thinking and learning.

100. Mr McCaffrey also submitted that at no point did Dr Dharni blame others. She recognised that a culmination of factors led to her behaving in this way: *“Yes it was a mixture of things, personal circumstances, my approach, the way I perceived things. It was a combination.”* Ultimately, she recognises the fault rests with her alone.

101. Mr McCaffrey submitted that Dr Dharni has also outlined future steps and answered questions about them. While some opportunities have not been afforded due to being out of work, he submitted the Tribunal can be sure that she will seek them out and take full advantage of them.

The Relevant Legal Principles

102. 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.

103. 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, which was serious and if so, whether the doctor’s fitness to practise is currently impaired by reason of that misconduct.

104. The Tribunal was mindful that it must determine whether Dr Dharni’s fitness to practise is impaired today, taking into account Dr Dharni’s 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.

105. The Tribunal was assisted by the guidance provided by Dame Janet Smith in her Fifth Shipman Report, as adopted by the High Court in the case of *CHRE v NMC and Grant* [2011] *EWHC 927*. This guidance said that any of the following factors are likely to be present when a doctor’s fitness to practise is found to be impaired, that is whether the doctor:

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

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

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

d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

106. The Tribunal had regard to the case of *GMC v Armstrong [2021] EWHC 1658 (Admin)*, which sets out that dishonesty can arise in a variety of circumstances and in a range of seriousness and that Tribunals must have proper regard to the nature and extent of the dishonesty and engage with the weight of the public interest factors tending towards a finding of impairment. This case also sets out that, in cases of dishonesty, the impact on public confidence in the profession is not diminished by a low risk of repetition and that the Tribunal must consider the weight that it puts on personal mitigation as this may have a more limited role in cases of dishonesty. It also sets out that it is an unusual case where dishonesty does not lead to a finding of impairment, however it does not automatically follow.

107. The Tribunal had at the forefront of its mind all three limbs of the overarching objective of the GMC set out in section 1 of the Medical Act 1983 (as amended) to:

- a. Protect, promote and maintain the health, safety and well-being of the public,
- b. Promote and maintain public confidence in the medical profession, and
- c. Promote and maintain proper professional standards and conduct for members of that profession.

The Tribunal's Determination on Impairment

Misconduct

108. In determining whether Dr Dharni's fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amounted to misconduct and did so with reference to the relevant sections of GMP, which sets out the standards that a doctor must continue to meet throughout their professional career.

109. The Tribunal considered that the following paragraphs of GMP were relevant, paragraphs 1, 65, 66, 71 and 72, which state:

‘1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.

Act with honesty and integrity

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

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

Communicating information

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.

Openness and legal or disciplinary proceedings

72 You must be honest and trustworthy when giving evidence to courts or tribunals. You must make sure that any evidence you give or 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’

110. The Tribunal considered that paragraph 72, in making sure documents were not misleading, was relevant in relation to Dr Dharni’s failure to declare her Health Harmonie work to the GMC during the course of its investigation (paragraph 1(a)(i)). The Tribunal considered that the above paragraphs of GMP that relate to honesty were relevant to the dishonesty allegations found proved and not paragraph 1, in respect of which no dishonesty was alleged.

111. The Tribunal accepted the GMC's categorisation of the Allegation for the purposes of its consideration of misconduct:

Dr Dharni's failure to declare her work with Health Harmonie (paragraphs 1(a)(i) and (ii) of the allegation)

112. The Tribunal was of the view that Dr Dharni's failure to declare her work with Health Harmonie in her Work Details form and to HEEWM was careless and fell short of the standards expected, in particular in paragraphs 71 and 72 of GMP, which requires that doctors must ensure that documents they complete are not misleading and reasonable steps are taken to check that the information is correct. The Tribunal was however mindful that no dishonesty was alleged or proven in respect of this paragraph of the Allegation.

113. The Tribunal bore in mind that not every departure from GMP will necessarily amount to serious misconduct. Actions had to be sufficiently serious, giving the term serious proper weight, to amount to serious misconduct. The Tribunal considered that the forms in which Dr Dharni failed to declare her Health Harmonie work were significant forms, one to her regulator and one to HEEWM. However, as dishonesty was not alleged in respect of paragraph 1a, it follows that it is not alleged or proven that Dr Dharni knowingly completed the forms incorrectly and the level of culpability for the failure to declare the full scope of her work must have been reckless at its highest. In considering misconduct in this particular paragraph of the allegation, the Tribunal applied the relevant case law, and it was not satisfied that a member of the profession or member of the public would describe Dr Dharni's actions as deplorable behaviour.

114. The Tribunal therefore concluded that Dr Dharni's conduct at Paragraph 1a of the allegation, whilst falling short of the standards to be expected of doctors as set out in GMP, did not fall so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

Dr Dharni's dishonesty in the ST3 application form submitted in January – February 2020 (paragraphs 2(a) and (b), 3(a) – (c) and 6(a) and (b) of the allegation).

115. The Tribunal took into account Dr Dharni's dishonest statements, which she made in her ST3 application. These were dishonest due to her failure to disclose that she was subject to a GMC investigation and stating that she was on XXX leave between 31 January 2018 and 4 August 2020 when she was not, and had carried out locum work during that time.

116. The Tribunal considered that these statements constituted two instances of dishonesty, albeit in one application form. In respect of this dishonest conduct, the Tribunal considered that it was clear that Dr Dharni had departed from GMP in regards to paragraphs 1, 65, 66, and 71.

117. The Tribunal considered whether the departures from GMP were serious. The Tribunal considered that Dr Dharni had a duty of candour to declare issues such as an investigation by her regulator to a prospective employer and to complete the application openly and honestly regarding any gaps in her employment. The Tribunal had determined at the facts stage that Dr Dharni's conduct was a deliberate omission because she wished to not disclose the GMC investigation as it may have affected the outcome of her application. Further, inputting XXX leave was a deliberate decision to conceal the fact she was also working in these ad hoc locum roles, which she did not consider added to her application or reflected her career progression.

118. The Tribunal accepted that there was no evidence that Dr Dharni would not have been appointed if the form was completed accurately. However, in purposefully omitting this information in her application, Dr Dharni provided inaccurate, misleading information that potentially could have given her an unfair advantage in the application process i.e. to secure admission to a training programme to become a consultant. This was, in the Tribunal's judgment, conduct sufficiently serious that fellow practitioners would find deplorable and self-evidently misconduct. The Tribunal considered that being able to trust the recruitment process and be confident in the information supplied by doctors when making applications is fundamental to public confidence in the profession. Whilst the Tribunal acknowledged that Dr Dharni had difficult personal circumstances around the time of completing the form, this did not in the Tribunal's view detract from the conduct being a serious instance of dishonesty.

119. The Tribunal found that Dr Dharni's actions by acting dishonestly in the completion of the ST3 application form brought the profession into disrepute and undermined public trust and confidence in the profession and has breached a fundamental tenet of the profession. The Tribunal determined for the reasons set out above that Dr Dharni's conduct was a serious breach of the standards of conduct as set out in GMP.

120. The Tribunal therefore concluded that Dr Dharni's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

Paragraph 4 of the Allegation

121. The Tribunal considered that the allegations in respect of paragraph 4 were admissions of bare fact and could not amount to misconduct in itself.

122. Accordingly, the Tribunal concluded that there was no misconduct in relation to its finding in respect of paragraph 4.

Impairment

123. The Tribunal having found that the facts found proved in respect of the dishonesty paragraphs of the Allegation, amounted to misconduct, went on to consider whether, as a result of that misconduct, Dr Dharni's fitness to practise is currently impaired. The Tribunal bore in mind that proven dishonesty and a finding of misconduct does not inevitably lead to finding of impairment and each case needs to be considered on its own facts.

124. The Tribunal considered whether Dr Dharni's misconduct was capable of being remediated, has been remediated, and whether it was likely to be repeated. In so doing, it considered whether there was evidence of Dr Dharni's insight into her misconduct and any steps taken by her to remediate it.

125. The Tribunal took into account that doctors occupy a position of privilege and trust. They are expected to act in a manner which maintains public confidence in them and in the medical profession and to uphold proper standards of conduct.

126. The Tribunal acknowledged that although dishonest conduct is difficult to remediate, it is not impossible. It was of the view that Dr Dharni's misconduct in relation to dishonesty was remediable but first she had to gain full insight into it, including the reasons that it occurred and the impact dishonesty has upon the reputation of the profession and upholding of standards and proper conduct.

127. The Tribunal had regard to the fact that Dr Dharni had denied the dishonesty allegations against her and that it was still her position that she had not been dishonest. The Tribunal was mindful that Dr Dharni was entitled to defend herself and maintain that position. However, the Tribunal considered that it was still open for Dr Dharni to talk about the drivers that led to the events in question. The Tribunal noted that Dr Dharni had acknowledged fault in her reflective statement and she accepts that the excuses that she had put forward were wrong, but she did not expand upon the reasons why she acted in this manner. The Tribunal considered that it was difficult for Dr Dharni to reflect fully in the short period of time that had elapsed since the Tribunal had made adverse findings against her at the end of the facts stage. It was encouraging that Dr Dharni had made a start to reflect

further and remediate by attending a probity course. However, the Tribunal considered that this reflection had mostly occurred very recently and that Dr Dharni reflecting further on her state of mind and motivation at the time would help reassure the Tribunal that the conduct would not be repeated.

128. The Tribunal accepted that Dr Dharni has recognised she has made mistakes. However, it was of concern that Dr Dharni's demonstration of reflection provided in her oral evidence and witness statement contained a degree of denial and excuses in her responses. For example, Dr Dharni stated in her evidence that she thought that a member of the public if they knew her full circumstances, would be understanding. Whereas, the Tribunal had found at the fact stage that a reasonable objective member of the public, fully informed, would find the conduct dishonest. The Tribunal concluded that Dr Dharni has not reflected fully and there is still work for her to do to develop her insight and remediate further. For example, the Tribunal did not consider that there was sufficient evidence to demonstrate an appreciation by Dr Dharni of the seriousness of the matters proved or the impact that her misconduct would have had on colleagues, the medical profession generally, and/or members of the public.

129. The Tribunal considered there was limited evidence of remedial work and Dr Dharni needed to undertake further remediation. While it acknowledged she had completed an online course on probity, dated 17 March 2025, this came at a late stage and there was limited reflection on how she would demonstrate what she has learnt and how she will apply that learning in the future.

130. The Tribunal concluded that Dr Dharni was at the beginning of her journey of insight and remediation and further time was required for her to gain full insight and remediation. In light of its conclusions, the Tribunal could not be satisfied that Dr Dharni's dishonest misconduct would not be repeated in the future. It therefore determined there remained a risk of repetition.

131. The Tribunal referred back to its findings in respect of misconduct and seriousness, as set out above. Applying the key legal principles in the case of *Grant*, regarding impairment, the Tribunal acknowledged that there were no patient safety or clinical concerns in this case. However, it concluded that Dr Dharni's conduct had brought the medical profession into disrepute, breached fundamental tenets of GMP and Dr Dharni has acted dishonestly.

132. The Tribunal considered that a reasonable and well-informed member of the public would expect a finding of impairment to be made in this case, both to mark the seriousness of the misconduct and to uphold the overarching objective. It considered that limbs *b* and *c*

of the overarching objective were engaged, namely it was necessary to promote and maintain public confidence in the medical profession and promote and maintain proper standards for members of the profession.

133. The Tribunal has therefore determined that Dr Dharni's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 20/03/2025

134. Having determined that Dr Dharni'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.

The Evidence

135. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

136. The Tribunal received further evidence on behalf of Dr Dharni, namely five testimonials in support of Dr Dharni from colleagues and friends.

Submissions

On behalf of the GMC

137. Mr Donoghue submitted that the matter of a sanction on Dr Dharni's registration is for the Tribunal exercising its own independent judgement. He referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (2024) ('SG').

138. Mr Donoghue reminded the Tribunal that it should consider the aggravating and mitigating features of the case and referred to specific paragraphs in the SG. He submitted that insight and remediation are best viewed on a sliding scale, with no insight or remediation at one end (thus acting as an aggravating factor) and full insight and remediation at the other end (thus acting as a mitigating factor). He submitted that in the present case, Dr Dharni has not made any admissions to the dishonesty allegations and has provided only limited evidence of insight and remediation, all of which arose very recently. Therefore, he submitted that when the Tribunal considers the sliding scale of insight and remediation, based on the Tribunal's findings at stage 2, Dr Dharni falls towards the bottom end of this scale, with only limited insight demonstrated into her dishonesty in this case.

139. Mr Donoghue submitted that further relevant mitigating factors were Dr Dharni's testimonials, her previous good character, her personal circumstances and the five-year lapse of time

since the index events. However, he submitted that testimonials are to be weighed appropriately against the nature of the facts found proved. He submitted that given the serious nature of the dishonesty findings in this case, the testimonials provide only limited mitigation for Dr Dharni. He also submitted Dr Dharni has not worked as a doctor for a number of years, such that the effect of this period without further complaint is limited, given there has been limited exposure of Dr Dharni to professional circumstances, such as those relevant to this case.

140. Mr Donoghue then took the Tribunal through the sanctions available in escalating order. He submitted that there are no exceptional circumstances present in this case, justifying taking no action by way of sanction, and that would not be an appropriate course for the Tribunal to take. He submitted that conditions would not adequately mark the seriousness of Dr Dharni's misconduct, given that it involved dishonesty. He submitted that this is not a case where a period of clinical retraining or supervision is required.

141. Mr Donoghue referred to paragraphs 91, 92, 93 of the SG. Mr Donoghue submitted that Dr Dharni's misconduct is so serious that action must be taken to protect the public interest and maintain public confidence in the profession. He submitted that suspension may be appropriate where there has been at least some acknowledgement of fault on the part of Dr Dharni and some limited remediation undertaken, albeit the Tribunal has found that there is still further work required. As such, he submitted a period of suspension is the most appropriate sanction to be imposed in this case. Mr Donoghue submitted that whilst the GMC's position is that it is necessary to take action upon Dr Dharni's registration in order to maintain public confidence in the medical profession, when the relevant mitigating and aggravating factors are balanced, Dr Dharni's misconduct falls short of being incompatible with continued registration as a doctor.

142. Mr Donoghue submitted that a review hearing would be appropriate in this case prior to the expiry of any period of suspension imposed.

On behalf of Dr Dharni

143. Mr McCaffrey submitted that based on the Tribunal's determinations on facts, misconduct and impairment, there is a proper and justifiable basis for it to consider a period of suspension, with a review hearing, as opposed to erasure. He referred to the Tribunal's conclusions on Dr Dharni's insight and remediation and submitted that she should be afforded the opportunity to complete this journey. He submitted that a suspension with a review would be proportionate and allow her to evidence to a future Tribunal that she can safely and properly return to practice.

144. Mr McCaffrey submitted there was evidence that Dr Dharni understands the problem, has started to gain insight and has taken steps to begin remediation. He submitted that this is a difficult process, and the Tribunal have noted those efforts and it is clear that remediation will work. Dr Dharni is engaged and committed to that process. He also submitted that recognition be afforded to the very different state of this case from both the investigation stage and the beginning of this hearing to what it is now.

145. Mr McCaffrey referred to the Tribunal's finding that this case involved two instances of dishonesty but in a single application form. He submitted that this was important contextual evidence when considering the issue of seriousness. He also submitted that this application form dates back to 2020.

146. Mr McCaffrey reminded the Tribunal of the very significant personal pressures which existed at the time that Dr Dharni completed the application form and the likely 'knock on' effect of that pressure in all other aspects of Dr Dharni's life – including her professional one.

147. Mr McCaffrey referred the Tribunal to the five testimonials, written with the full knowledge of their purpose and the findings at facts stage. He submitted that the testimonials are unusually insightful about Dr Dharni and give further and wider context to her character and personality.

148. Turning to the issue of what sanction to impose, Mr McCaffrey submitted that the appropriate sanction in this case was suspension. He submitted this case was clearly a serious departure from GMP, however it is capable of remediation and there was clear evidence that remediation can be successful. It was not fundamentally incompatible with continued registration. Therefore, he submitted that erasure would not be in the public interest and suspension could meet all three limbs of the overarching objective. He also submitted that although incomplete, there was insight by virtue of Dr Dharni's admissions, her written reflections and the probity course that she had completed. He submitted there was no evidence of repetition in the five years since this misconduct occurred.

149. Regarding Dr Dharni's dishonesty, Mr McCaffrey submitted this case does not come close to representing the most serious level of dishonesty given consideration of the mitigation above, and the context of the case as a whole. This should be reflected in the proportionality of the outcome. He referred to paragraphs 120-128 in the SG and paragraph 109 which states that that even persistent dishonesty or that which is covered up, does not automatically result in erasure by the use of the word "likely." Mr McCaffrey submitted that neither of those features, of the dishonesty being persistent, or covered up, applied in this case.

The Tribunal's Determination on Sanction

150. The Tribunal took into account its earlier findings, the submissions of the parties and all of the evidence adduced during the course of these proceedings.

151. In reaching its decision, the Tribunal has taken account of the SG and of the overarching objective. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Dharni's interests with the public interest. It kept in mind that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest, although the sanction may have a

punitive effect. The LQC stated that the Tribunal should consider the available sanctions in order of seriousness, starting with the least restrictive.

152. The LQC advised the Tribunal that, at this stage, there is no burden or standard of proof and the decision on sanction is a matter for the Tribunal's judgment alone.

Aggravating and Mitigating Factors

153. The Tribunal has already set out its decisions on the facts, misconduct and impairment, which it took into account during its deliberations on sanction. Before considering what action, if any, to take in respect of Dr Dharni's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

154. The Tribunal considered the following to be aggravating factors in this case:

- Insight and remediation have not been timely. Whilst Dr Dharni has accepted that she has made mistakes and started to develop insight and remediate, she has not tackled the root causes of her dishonesty and her insight and remediation remain incomplete.

155. Having identified aggravating factors in this case, the Tribunal identified the mitigating factors to be:

- Dr Dharni has fully engaged with the GMC investigation and the hearing.
- She had made some admissions at the outset of the hearing.
- Dr Dharni has no previous findings of misconduct and is of previous good character.
- A significant time has lapsed since the misconduct (over 5 years).
- There is no evidence of any misconduct by her in the intervening period, although it is noted that Dr Dharni has not worked as a doctor since 2021.
- Dr Dharni was experiencing very difficult personal circumstances at the time.
- She has shown expressions of remorse and regret.
- She has started to develop insight and remediation with steps to improve.
- Positive testimonials that attest to her good character and that she is a good doctor. In particular, Dr K, who had supervised Dr Dharni, stated that Dr Dharni is a kind, caring, competent and trainable doctor.

No action

156. The Tribunal first considered whether to conclude the case by taking no action. It considered paragraphs 68-70 of the SG, which state that taking no action following a finding of impaired fitness to practise is only appropriate in exceptional circumstances. The Tribunal determined that there were no exceptional circumstances in this case. Given its findings on impairment, it determined it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action.

Conditions

157. The Tribunal next considered whether to impose conditions on Dr Dharni's registration. The Tribunal took into account that any order of conditions would need to be appropriate, proportionate, workable and measurable. It had regard to specifically paragraphs 81 and 82 of SG which detailed when conditions might be appropriate, for example in cases involving the doctor's health or issues around the doctor's performance, none of which are present in this case.

158. The Tribunal determined that it would not be sufficient nor proportionate to the serious misconduct in this case to impose conditions on Dr Dharni's registration. It was unable to formulate any appropriate, workable or proportionate conditions and determined that the nature (namely dishonesty) and seriousness of the misconduct was such that conditions would be wholly inadequate.

26. Furthermore, conditions would not adequately address the overarching objective, including the need to promote and maintain public confidence in the medical profession and uphold proper professional standards and conduct for the members of the profession.

Suspension

159. The Tribunal then went on to consider whether imposing a period of suspension on Dr Dharni's registration would be appropriate and proportionate. It bore in mind the SG in relation to suspension, including paragraphs 91 and 92 which states:

'91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

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

28. The Tribunal carefully considered the factors indicating when a doctor's misconduct was likely to be fundamentally incompatible with continued registration as set out in paragraph 109 of the SG. The Tribunal had found that Dr Dharni's misconduct was a serious departure from the principles set out in GMP, and there remained incomplete insight and remediation. However, the Tribunal had found at the impairment stage, that the misconduct was capable of being remediated and there was no evidence that remediation was unlikely to be successful. Further, although paragraph 109(h) refers to dishonesty, this is especially where it is persistent and/or covered up, neither of which were present in this case.

160. The Tribunal had regard to the fact that Dr Dharni has acknowledged fault and expressed genuine remorse. It acknowledged that Dr Dharni had begun to address the serious concerns raised by her misconduct and is seeking to learn from professional courses directly relevant to her misconduct, by having attended a probity course. It was of the view that Dr Dharni should be given the chance to make efforts to complete her insight and remediation journey.

161. The Tribunal had regard to the five positive testimonials provided on behalf of Dr Dharni. Whilst in cases involving dishonesty, mitigation and testimonials may have less weight than in other cases, the Tribunal considered that the testimonials demonstrate that Dr Dharni is clinically well regarded by her colleagues and peers. It considered there was no evidence that Dr Dharni presents a risk to the public, in that there were no clinical concerns or patient safety issues in this case.

162. The Tribunal, having considered the SG and balanced the mitigating and aggravating factors, concluded that whilst Dr Dharni's misconduct was serious, it was not fundamentally incompatible with continued registration. It considered that erasure would be a wholly disproportionate and punitive sanction.

163. Therefore, in the circumstances of this case, the Tribunal considered suspension would appropriately mark the seriousness with which the Tribunal viewed Dr Dharni's misconduct, sending out a clear message to the public and the profession, that such conduct was not acceptable. It did not consider it to be in the public interest to erase an otherwise competent doctor in the specific circumstances of this case. The Tribunal considered that a sanction of suspension would be sufficient to uphold proper professional standards and would not undermine public confidence in the profession. Accordingly, the Tribunal concluded that a period of suspension was the appropriate and proportionate sanction in this case and determined to suspend Dr Dharni's registration.

164. Having decided that the appropriate sanction was one of suspension, the Tribunal went on to consider the length of suspension. In determining the length of the suspension, the Tribunal took account of the need to mark the seriousness of Dr Dharni's misconduct and also to declare and uphold proper standards of behaviour. The Tribunal considered paragraphs 99, 100 and 102 of the SG in that regard.

165. The Tribunal found that Dr Dharni's dishonest misconduct was serious and the public interest required a lengthy period of suspension, but considered it was not so serious to warrant a suspension length of the maximum period of 12 months.

166. The Tribunal also found that Dr Dharni was only at the start of her insight and remediation journey. Therefore, it also wanted to ensure that Dr Dharni has adequate time to develop her insight, and further remediate, and it noted that she has plans in place to start to do that.

167. Taking all the circumstances into account, the Tribunal therefore determined that imposing a period of eight-month suspension was appropriate and proportionate. It was satisfied that a period of

this length marked the seriousness of Dr Dharni's misconduct and upheld the over-arching objective to maintain public confidence in the profession and uphold proper professional standards.

168. The Tribunal considered that an eight-month suspension would give Dr Dharni adequate time and opportunity to complete her journey of insight and remediation and show evidence of such to a review hearing to enable her, in due course, to return to practise.

Review Hearing Directed

169. The Tribunal determined to direct a review of Dr Dharni's case. A review hearing will convene shortly before the end of the period of suspension unless an early review is sought. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Dharni to demonstrate how she has remediated, developed her insight further and is safe to return to unrestricted practice. It therefore may assist the reviewing Tribunal if Dr Dharni were to provide:

- A detailed reflective piece in relation to her dishonesty and further development of insight, and in particular the concerns raised by the Tribunal: Dr Dharni may wish to reflect in more detail on the root causes of her past actions, and the impact of dishonesty upon public confidence, the reputation of the medical profession and upholding standards.
- Any further evidence of remediation, such as the completion of CPD in relevant and targeted courses such as professional probity, integrity and ethics.
- A reflection piece written post professional courses. She may wish to give the reviewing Tribunal each course aims and objectives, show examples of what she has learnt and demonstrate how she will apply that learning if allowed to resume practicing.
- Any other evidence to demonstrate the maintenance of medical skills and knowledge.

Dr Dharni will also be able to provide any other information that she considers will assist.

Determination on Immediate Order - 20/03/2025

170. Having determined that Dr Dharni's registration is to be suspended for a period of eight months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Dharni's registration should be subject to an immediate order.

Submissions

On behalf of the GMC

171. Mr Donoghue drew the Tribunal's attention to paragraphs 172 to 178 of the Sanctions Guidance (February 2024). He reminded the Tribunal that it found two instances of dishonesty. Therefore, he submitted it would be appropriate to impose an immediate order

in this case in the public interest and to uphold confidence in the profession. He informed the Tribunal that there is no interim order to revoke.

On behalf of Dr Dharni

172. Mr McCaffrey submitted that Dr Dharni has not been working and that an immediate order was a matter for the Tribunal to consider.

The Tribunal's Determination

173. The Tribunal considered the relevant paragraphs of the Sanctions Guidance which deal with immediate orders, in particular paragraph 173 which states:

173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.

174. The Tribunal already noted the seriousness with which it regards Dr Dharni's dishonesty. The Tribunal was of the view that an immediate order was necessary in the public interest.

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

176. There is no interim order to revoke.

177. That concludes this case.

ANNEX A – 10/03/2025

Application to under Rule 17(2)(g)

178. Following the closing of the GMC's case, Mr McCaffrey, Counsel on behalf of Dr Dharni, made an application under Rule 17(2)(g) of the Rules, which states:

'17(2) The order of proceedings at the hearing before a Medical Practitioners Tribunal shall be as follows—

...

(g) the practitioner may make submissions as to whether sufficient evidence has been adduced to find some or all of the facts proved and whether the hearing should proceed no further as a result, and the Medical Practitioners Tribunal shall consider any such submissions and announce its decision as to whether they should be upheld;'

179. Mr McCaffrey's application concerned the following paragraphs of the Allegation: 1b, 3d, and 7a, b and c.

Submissions on behalf of Dr Dharni

180. Mr McCaffrey referred to the *Galbraith* case which was approved in *Sharaf v GMC [2013] EWHC 3332 (Admin)*, which sets out that:

'(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case.

(2) The difficulty arises where there is some evidence but it is of a tenuous character; for example, because of inherent weakness or vagueness, or because it is inconsistent with other evidence.

(a) Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.

(b) Where, however, the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury...'

Paragraph 1b

181. Mr McCaffrey submitted that the evidence relating to Allegation 1b came entirely from the witness Ms D who was inconsistent and much of her evidence was hearsay (as a colleague was the one collating the information relied upon). He submitted she did not have full knowledge of operational matters nor could she explain aspects of the biannual review statistics. He submitted that she conceded on a number of points, including that she had never met Dr Dharni and all her dealings were either electronic or email (although such

emails were not produced). She conceded that documents that she presented herself needed to be treated with caution and conceded that some of the dates and times within the evidence were wrong. She accepted that there was nothing to show the information was shared with Dr Dharni and it would have been fair to Dr Dharni if the underlying data had been provided to her when requested. Therefore, Mr McCaffrey submitted that the evidence before the Tribunal was weak and tenuous and on many occasions shown to be inaccurate and inconsistent.

Paragraph 3d

182. Mr McCaffrey submitted that given there was no evidence that Dr Dharni was ever given written notification of the reasons for her contract being terminated, her knowledge can only be implied from the evidence of the conversation between herself and Mr E on 27 June 2018. He submitted that she was never provided a copy of the e-mail sent to her agency or, for that matter, an e-mail like that sent to Dr A. He submitted the Trust never wrote to her and clearly had no information with the specifics of her termination.

183. Mr McCaffrey submitted that Mr E's level of uncertainty as to his recollection of the events changed numerous times in evidence and had ranged from "quite sure", "sure" to "90%". He submitted that it was likely Mr E's memory of that conversation was honestly muddled, as it was 7 years after the events and there were no contemporaneous documents to support his recollection. Furthermore, an email that he has sent to Dr A in 2020, two years after the events, did not include the detail later relied upon in his witness statement written two years later in 2022. Mr McCaffrey submitted that although the GMC may submit that this Allegation should remain as it focuses upon the reliability of Mr E, this was a borderline case and Mr E's evidence was not strong enough to pass the half time stage of proceedings. Therefore, he submitted that there was insufficient evidence to support this Allegation.

Paragraph 7a, b and c

184. Mr McCaffrey submitted that the evidence relating to this Allegation, came solely from Dr F and a single document (the Datix report he completed).

185. In respect of paragraph 7a, Mr McCaffrey submitted that the GMC have presented no evidence upon which it can be found when Dr Dharni left. Nor have the GMC produced policies or evidence to substantiate what they seek the Tribunal should find proved, as to whether it is alleged that Dr Dharni left the ward, hospital or hospital grounds. He submitted that the sum total of the GMC evidence is that the SHO claimed to Dr F that she had not seen Dr Dharni on the ward after a certain time. In giving that time, she left out of her account the

communications that took place between herself and Dr Dharni throughout the shift. He submitted that the GMC produce no credible evidence that Dr Dharni did not inform the SHO. Further, he submitted that the GMC produce no evidence about the level of support Dr Dharni provided the SHO, nor what level of support she should have provided her. It is a purely subjective complaint from a witness not before the Tribunal. The Tribunal has no proper way to approach or assess this Allegation and the evidence is entirely unsatisfactory.

186. In respect of paragraph 7b Mr McCaffrey submitted there was no evidence at all to support the notion that Dr Dharni was uncontactable. He submitted that WhatsApp communications, about which Dr F was asked, show there was contact directly between the SHO and Dr Dharni throughout the morning. Of note, there appears to be a WhatsApp call which lasted for 11.37 minutes at 06.23am from the SHO to Dr Dharni. This would tally exactly with the Orthopaedics call and the message at 06.57am might explain exactly what that call was about. He submitted this would serve to rebut this claim entirely.

187. In respect of paragraph 7c, Mr McCaffrey submitted that there was no evidence at all about what the policy was with respect bleep handovers in normal circumstances. When asked, Dr F accepted the bleep can be left in the handover room. It seemed there was no real policy and multiple options were available – and they altered in different hospitals. He submitted that there was no credible basis upon which the Tribunal could determine Dr Dharni was responsible for the bleep after her shift finished at 7am. Nor is there any evidence beyond speculation that could allow a permissible conclusion that Dr Dharni left it there or took out the battery. The totality of it is an assumption made by Dr F – and made on the basis of agreed incorrect understanding on 7 September 2021.

On behalf of the GMC

Paragraph 1b

188. Mr Donoghue submitted that the email which included commentary as to the reasons for Dr Dharni's lateness was collated by a member of Ms D's team and can have only come from reports made by individuals, rather than being system generated data. While he accepted that the commentary was hearsay evidence, it had been collated during the course of business activity, therefore was less likely to be concoction or manipulation. Mr Donoghue referred the Tribunal to the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)* which sets out caselaw on hearsay evidence. He also submitted that instances of Dr Dharni's lateness during the period of January – June 2021 are also evident in the bi-annual review document. He submitted that the above evidence, which includes reports by Dr Dharni that she was going to be late, or explaining why she was late, is

sufficient that a reasonable Tribunal properly directed could find this paragraph of the Allegation proved.

Paragraph 3d

189. Mr Donoghue submitted that the evidence within Mr E's witness statement was sufficient in isolation for the Tribunal to find paragraph 3d proved. He submitted that Mr E was consistent in his oral evidence that he had explained to Dr Dharni the reasons for her dismissal. He submitted that Mr E's explanation as to why, despite the passage of time, he remained of the view that he did explain the reasons to Dr Dharni, was that he recalled vividly that he felt very uncomfortable and it was quite upsetting. He submitted there was evidence before the Tribunal of the reasons quoted by the Trust for Dr Dharni's dismissal, there is also first-hand evidence from a witness who provided those reasons to Dr Dharni in a face-to-face meeting, supporting that she had knowledge of them at the time of making the relevant application in January – February 2020. As such, he submitted it was plainly sufficient for a reasonable Tribunal to find each element of paragraph 3d proved.

Paragraph 7a, b and c

190. Mr Donoghue submitted that the evidence in respect of paragraphs 7(a) – (c) of the Allegation is based upon the evidence of Dr F, including the DATIX report he made after the incident. He submitted that whilst it is correct to state that Dr F's knowledge of what happened prior to his arrival at the hospital is based upon hearsay, in the form of the account reported to him by the nights SHO, that does not necessarily render the evidence given by Dr F inherently weak or unreliable.

191. In respect of paragraph 7a, Mr Donoghue submitted that Dr F had also set out some of the implications of Dr Dharni leaving the ward early, in terms of the responsibilities left with the SHO and the difficulties encountered by the T&O team when the input of the Plastics department was required.

192. In respect of paragraph 7b, Mr Donoghue submitted that it was Dr F's evidence that the T&O department had attempted to contact Dr Dharni during the early hours but had been unable to reach her. Therefore they contacted the SHO to advise the SHO that she needed to take a patient to theatre as an emergency. However, the SHO was inexperienced in plastics and so she was unable to assist. He submitted that this was recorded in the DATIX incident by Dr F. When considering the WhatsApp messages, he submitted that it will be for the Tribunal to assess what that message actually shows and whether it is sufficient to negate what was said to Dr F by the SHO, which ought to be done at the end of the facts stage.

193. In respect of paragraph 7c, Mr Donoghue submitted that Dr F was clear in giving evidence that Dr Dharni leaving the bleep in the room was information based upon what he was told by the SHO (namely that she had never held the bleep) and that only Dr Dharni, as registrar, or the SHO would have held the bleep on that shift. He submitted it was a logical inference from that evidence that Dr Dharni must have been the one to leave the bleep in the seminar room. He further submitted that the DATIX form demonstrated that the T&O team and tried to contact Dr Dharni via the bleep in the morning (when she was still on shift) and it was disabled at that point. He submitted that this supports the GMC position that Dr Dharni disabled the bleep and left it unattended.

194. As such, he submitted the evidence, when taken at its highest, was sufficient for a reasonable Tribunal to find paragraphs 7a-c proved.

The Relevant Legal Principles

195. The Tribunal had regard to Rule 17(2)(g) of the Rules. The Tribunal reminded itself that, at this stage, its purpose was not to make findings of fact, or to consider whether it would find each paragraph proved, but to determine whether sufficient evidence, taken at its highest, has been presented by the GMC, such that a reasonable Tribunal *could* properly find the relevant paragraphs proved.

196. The Tribunal considered the submissions of both parties. It also took account of all of the evidence presented to date, both oral and documentary, in reaching its decision. It also applied the test in *R v Galbraith* [1981] 2 All ER 1060, as set out above.

The Tribunal's Decision

Paragraph 1b

1. Between 17 May 2019 and 11 October 2021 you carried out work for HealthHarmonie Ltd ('HH Ltd') under a Practising Privileges Contract and you:

Admitted and found proved

- b. were late for clinics which were due to commence between 09:00 and 09:30 on the dates as set out in Schedule 1.

To be determined

197. The Tribunal bore in mind that the GMC's case relied on the evidence of Ms D and her exhibits to prove this Allegation and there were no other witnesses called.

198. Having heard Ms D's oral evidence, the Tribunal was of the view that while she tried to assist the Tribunal as much as she could, her evidence was not consistent with other evidence in the case, in particular the correspondence that had been put to her between her colleague Ms L and Dr Dharni regarding agreeing to later clinic start times, of which she was unaware. In addition, Ms D's evidence regarding the clinic start times (between 8.30am and 9am) was not consistent with what was alleged in the Allegation (between 9am and 9.30am). The Tribunal noted that she had never met Dr Dharni in person but had dealt with her over email, albeit none of those emails were before the Tribunal. It considered that Ms D did not have a full grasp of the detail within the Bi-annual Review form as there were times during her oral evidence she accepted she did not know the answer. Ms D also made a number of concessions when giving evidence, accepting that the times given by the systems EMIS and RADAR might not be an accurate reflection of when a doctor arrived, as it depended upon when they opened the patient record, and would need to be treated with caution.

199. The Tribunal noted that Ms D relied on the email, dated 24 March 2022, from Ms L, who was not called to give evidence. This email listed the dates and times of Dr Dharni's alleged lateness along with commentary as to the reasons for her lateness on each occasion. However, the GMC did not call witnesses that may have had firsthand accounts of Dr Dharni's lateness or who completed the form, therefore the Tribunal had no opportunity to test the reliability of evidence without having a witness to speak to it. The Tribunal bore in mind the submissions made by the GMC, including on the admissibility of hearsay, however, did not consider that it strengthened this particular Allegation given the extent of the concerns regarding the reliability of the evidence relied upon.

200. The Tribunal concluded that the evidence available to it regarding this Allegation was unreliable and sufficiently tenuous that no reasonable tribunal could find the Allegations proved. In addition, the Tribunal considered that the issues regarding the weakness of the evidence relied upon applied to the whole of the times in Schedule 1, rather than just individual dates.

201. In respect of paragraph 1b of the Allegation, the Tribunal determined to accept the application made on behalf Dr Dharni, pursuant to Rule 17(2)(g) of the Rules and finds that there is no case to answer in respect of that paragraph.

Paragraph 3d

3. At the time of completing the Application you knew that:

- d. your contract of employment at UHCW had been terminated early with immediate effect due to your:
 - i. late attendance;
To be determined
 - ii. frequent cancelling of shifts;
To be determined
 - iii. providing short notice when cancelling on-call commitments without justification.
To be determined

202. The Tribunal bore in mind that the GMC relied on the evidence of Mr E to prove this Allegation, and no other witnesses were called.

203. The Tribunal noted the wording of the Allegation and that it was not only that information was conveyed to Dr Dharni regarding her contract termination, but that she knew the specific reasons listed in paragraphs i) – iii). The Tribunal bore in mind that it was the GMC’s case that Dr Dharni’s contract of employment was terminated on 22 June 2018 but it received no documentary evidence to show that the agency had communicated this to Dr Dharni. Nor was there evidence of an email from the agency or the Trust to Dr Dharni with clear information of the reasons for her contract termination. It was Dr Dharni’s position that she was unaware that her contract was terminated until 27 June when she was asked to leave by Mr E. The Tribunal considered that Dr Dharni’s actions in continuing to attend the hospital after 22 June 2018 indicated that she was not aware that her contract had been terminated prior to 27 June. It also noted that there had been conflicting information from the hospital, in that Dr Dharni had continued to be included in the rotas. Mr E’s evidence was that he was notified that Dr Dharni was at the hospital on 27 June and he was asked to tell her to leave. Therefore, he went to speak to her whilst she was in surgical theatre to escort her off the premises and this was not a formal meeting. It was the GMC’s case that during this conversation outside the theatre room, Mr E explained to Dr Dharni the specific reasons why her contract had been terminated.

204. The Tribunal considered that Mr E’s oral evidence was consistent with his witness statement and he was doing his best to assist the Tribunal. It accepted that he was truthful in that his recollection of this conversation with Dr Dharni was uncomfortable and stressful for them both. However, the GMC sought to rely on one line of his witness statement to prove this Allegation – *“I explained to Dr Dharni the reasons why her contract had been terminated*

and Dr Dharni appeared upset. Dr Dharni explained to me that she was having some issues with her car, hence the reason for her late attendance”.

205. The Tribunal took the following into account. The sole evidence of this alleged conversation, taking the GMC case at its highest, was one witness’ recollection of an informal conversation that occurred seven years ago. Mr E did not explain in detail in his witness statement nor his oral evidence the conversation between him and Dr Dharni regarding the reasons for her contract termination. The Tribunal considered that this conversation with Mr E may have been a shock to Dr Dharni and it would have been stressful for her to be escorted out of the hospital. The GMC case relied upon this conversation being sufficient to explain to Dr Dharni in clear and specific terms the reasons for her contract termination and for her to fully absorb the information.

206. The Tribunal had regard to the fact that there were no other contemporaneous records before the Tribunal to support the Allegation, such as a follow up email to Dr Dharni that detailed the reasons for her employment termination. Considering the whole of the evidence heard at this stage, the Tribunal was not satisfied that a reasonable Tribunal could rely upon Mr E recollection of the exact content of the conversation, namely that he told Dr Dharni the reasons for her contract termination.

207. The Tribunal concluded that the evidence available to it regarding this Allegation was unreliable and sufficiently tenuous that no reasonable tribunal could find the Allegations proved.

208. In respect of paragraph 3d of the Allegation, the Tribunal determined to accept the application made on behalf Dr Dharni, pursuant to Rule 17(2)(g) of the Rules and finds that there is no case to answer in respect of that paragraph.

Paragraph 7a

7. On 6 September 2021 you were covering a shift as a locum Specialist Registrar in Plastics at QEH Birmingham and were scheduled to cover the shift from 20:00 on 6 September 2021 until 07:00 on 7 September 2021 and you:
 - a. left QEH Birmingham earlier and sometime between 04:30 and 06:00 on 7 September 2021 without informing your colleagues and leaving the FY2 Dr C who was new in Burns and Plastics unsupported;
To be determined

209. The Tribunal bore in mind that the GMC relied on the evidence of Dr F to prove this Allegation, and no other witnesses were called.

210. The Tribunal considered the way this paragraph of the Allegation has been framed and that there were three elements to this paragraph of the Allegation: (i) leaving QEH Birmingham sometime between 4.30am and 6.00am, (ii) without informing colleagues, and (iii) leaving the SHO unsupported.

211. The Tribunal considered the submissions made by the parties on the wording of the Allegation and whether it was alleged that Dr Dharni had left the ward, the hospital building or the grounds. The Tribunal considered that a logical and reasonable interpretation of the Allegation was that, given that there was evidence that accommodation could be booked for the on call registrar to take rest, the Allegation was that Dr Dharni had left the hospital grounds.

35. At the outset of proceedings, Dr Dharni made a partial admission to paragraph 7a in that she accepted that she had left the hospital premises, but she disputed the remainder of the paragraph, as set out in her witness statement. It appeared to be Dr Dharni's case that she went to hospital accommodation and this was nearby, however the Tribunal was mindful that at this stage it had not heard from Dr Dharni and in considering this application it had to have regard to the evidence before it, taking the GMC case at its highest. The evidence of Dr F was that the SHO had told him at the handover that she had not seen Dr Dharni since about 2am. The Tribunal noted that it had not heard evidence directly from the SHO and this was hearsay, however it accepted the submission made by Mr Donoghue that this alone did not necessarily render the evidence as unreliable. In addition, the Tribunal noted that Dr Dharni had in email correspondence with the hospital during the conduct investigation that followed, referred to leaving in the early hours of the morning. The Tribunal considered that on one view of the evidence a reasonable Tribunal could find this aspect of the Allegation proved and there was sufficient evidence for this aspect to pass the half time stage.

212. In relation to leaving without informing colleagues and leaving the SHO unsupported, again this was based upon the hearsay evidence of the SHO as relayed to Dr F, soon after events and as recorded in the DATIX. It was Dr F's evidence that the SHO was inexperienced and required support and this was accepted by the Tribunal. Therefore, it considered that taking the GMC case at its highest there was also a case to answer regarding how by leaving early the SHO was unsupported.

213. The Tribunal concluded that in respect of paragraph 7a of the Allegation, the Tribunal determined to refuse the application made on behalf Dr Dharni, pursuant to Rule 17(2)(g) of the Rules.

Paragraph 7b

- b. were uncontactable during the shift which resulted in colleagues in Trauma and Orthopaedics being unable to contact you regarding a patient who required an emergency procedure;

To be determined

214. In relation to whether there is a case to answer on the Allegation that Dr Dharni was uncontactable during the shift, the Tribunal took into account that whilst Dr Dharni's bleep may not have been operational at the time, there were WhatsApp messages before the Tribunal, which demonstrated there was communication in the morning between Dr Dharni and the SHO at the hospital. There also was evidence of a WhatsApp phone call between Dr Dharni and the SHO before the end of her shift. Therefore Dr Dharni was clearly contactable, albeit using WhatsApp rather than the bleep. It was also accepted by Dr F during cross-examination that messaging doctors directly using methods such as WhatsApp did routinely occur. The WhatsApp message in question also related to Dr Dharni having spoken with the Trauma and Orthopaedics team, which showed that there had been a conversation between them, albeit towards the end of the shift.

215. The Tribunal concluded that the GMC case was undermined by the WhatsApp evidence in respect of paragraph 7b of the Allegation, to the extent that no reasonable Tribunal could find this paragraph proved. Accordingly, the Tribunal determined to accept the application made on behalf Dr Dharni, pursuant to Rule 17(2)(g) of the Rules and finds that there is no case to answer in respect of that paragraph.

Paragraph 7c

- c. left your bleep unattended in the seminar room without its battery.

To be determined

216. It is understood from Dr Dharni's witness statements, that her case is that she did not leave the bleep in the seminar room, unattended or with the battery out, but that it was in a tray in the Burns Unit handover room. Further, that it had been agreed with the hospital that she had to leave at 7am and the SHO would be in charge of holding the bleep between 7am and 8am until handover.

217. The Tribunal had regard to the evidence of Dr F. He stated that he went to check a few rooms to see if he could locate Dr Dharni and he found the bleep with the battery out in the seminar room. He stated that it was incumbent on the member of staff to always have the bleep so that they can be contacted in emergencies. He said in oral evidence that it was not an assumption that Dr Dharni had left the bleep in the room as he had been told by the SHO that she had not held the bleep during the shift and there were only those two people who could have left it there in the seminar room. The Tribunal considered that a reasonable Tribunal could accept this evidence and draw a reasonable inference that Dr Dharni was responsible for the bleep during the shift until leaving and that she left it in the seminar room unattended rather than handing it to the SHO.

218. Therefore, the Tribunal was satisfied that there were grounds on which a reasonable Tribunal could find this matter proved as it was a reasonable inference to be drawn that Dr Dharni left her bleep in the seminar room, that it was unattended and without a battery.

219. The Tribunal concluded that in respect of paragraph 7c of the Allegation, the Tribunal determined to refuse the application made on behalf Dr Dharni, pursuant to Rule 17(2)(g) of the Rules.

Non-confidential schedule
SCHEDULE 1

Date of clinic	Start Time	Time Dr Dharni arrived
29 July 2019	09:00	09:30
5 February 2021	09:30	10:40
9 April 2021	09:00	10:35
18 July 2021	09:00	11:30
26 July 2021	09:00	09:27
17 September 2021	09:00	10:00
27 September 2021	09:00	10:30
11 October 2021	09:00	09:55

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