

PUBLIC RECORD**Date:** 14/02/2025**Doctor:** Dr Lina SIMAVICIUTE**GMC reference number:** 7797040**Primary medical qualification:** Gydytojas 1999 Kauno Medicinos Universiteto**Type of case** **Outcome on non-compliance**

Review - Non-compliance with a performance assessment Non-compliance found

Summary of outcome

Suspension for 12 months

Review hearing directed

Tribunal:

Legally Qualified Chair	Mr Dharmesh Patel
Lay Tribunal Member:	Mr Gareth Davies
Registrant Tribunal Member:	Dr Loralie Rodrigues

Tribunal Clerk:	Mrs Rachel Horkin
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Attendance and Representation:

Doctor:	Not present, not represented
GMC Representative:	Ms Isobel Thomas, 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 consideration of Non-compliance 14/02/2025

1. This is the first review of Dr Simaviciute's case following a Medical Practitioners Tribunal (MPT) hearing which concluded in April 2024.
2. The Tribunal granted an application made by Ms Isobel Thomas, Counsel on behalf of the GMC, pursuant to Rules 20 and 40 of the Rules that notice of this hearing had been properly served on Dr Simaviciute and has determined to proceed in the doctor's absence. The Tribunal's full decision is included at Annex A.

Background – The 2024 Tribunal

3. Dr Simaviciute is an international GP who was on the Midlands International GP Recruitment Programme. On 24 January 2022, the GMC received a complaint from Ms A XXX at the Marsh Medical Practice ('The Practice'). Ms A outlined concerns raised about Dr Simaviciute's clinical practice during the period 6 August 2021 to 8 September 2021.
4. Ms A provided Significant Event Reports and advised that they also received a formal complaint from a member of staff who alleged that Dr Simaviciute had behaved in an aggressive and threatening manner. Dr Simaviciute was dismissed from the Practice.
5. On 3 February 2022, the GMC received a referral from the Medical Director, System Improvement and Professional Standards and Responsible Officer at NHS England and NHS Improvement – Midlands ('NHS England') which raised concerns about the clinical performance of Dr Simaviciute. They stated that,

'The main concerns were her lack of clinical knowledge and skills and demonstration of insight, and inadequate communication in the English language ...

6. Dr Simaviciute was invited to undergo a GMC Performance Assessment and to undertake a Language Assessment. The language assessment did not form part of the April 2024 Tribunal's considerations.
7. The April 2024 Tribunal determined that Dr Simaviciute had not provided any good reason for her continued failure to comply with the direction for her to undergo the GMC directed PA. Further, the April 2024 Tribunal was satisfied that Dr Simaviciute had failed to comply with the GMC's direction to undergo a Performance Assessment.
8. The April 2024 Tribunal determined to suspend Dr Simaviciute for a period of 9 months and considered that a reviewing Tribunal may be assisted by the following:

- Evidence that Dr Simaviciute has undergone a GMC-directed PA, along with the results of that assessment;
- Any further information Dr Simaviciute considers will assist the Tribunal.

9. The Tribunal determined to impose an immediate order of suspension.

Today's Review Tribunal

10. This Tribunal has met to review Dr Simaviciute's case. It has considered, under Rule 22A of the Rules, whether there has been a failure to comply with a Performance assessment under Schedule 1 of the Rules.

Submissions

11. Ms Thomas rehearsed the background of the case and direction to undergo a Performance Assessment. Ms Thomas submitted that no evidence has been adduced by Dr Simaviciute to indicate that she has undergone the Performance Assessment. Ms Thomas informed the Tribunal that the GMC has, on many occasions, made the doctor aware of what was required of her but no response has been received.

12. Ms Thomas submitted that there is no evidence before the Tribunal to suggest that Dr Simaviciute has been prevented from participating in an assessment by reason of XXX. Ms Thomas further submitted that there's been no good reason for Dr Simaviciute's failure to comply.

Tribunal's decision

13. Whilst the Tribunal has borne in mind the submissions made, the decision regarding non-compliance is one for it to reach, exercising its own judgement.

14. The Tribunal is satisfied that the GMC has clearly explained to Dr Simaviciute what is required of her and considers that there has been a continued failure to comply with the direction to undertake a Performance Assessment. The Tribunal finds that Dr Simaviciute has apparently disengaged with this process and there is no proof from her that she has undertaken the Performance Assessment. Further, the Tribunal finds that there has been no information or evidence received from Dr Simaviciute to indicate a good reason for why she has not complied with the GMC direction.

15. In the circumstances the Tribunal has determined that non-compliance has been found.

Determination on Sanction 14/02/2025

16. Having determined that there is non-compliance by reason of Dr Simaviciute's failure to submit to/comply with a performance assessment in accordance with Schedule 1 to the Rules; the Tribunal must now consider whether a sanction should be imposed.

17. The Tribunal received no further documentation at this stage of the hearing.

Submissions

18. Ms Thomas submitted that Dr Simaviciute should remain suspended. Ms Thomas submitted that the GMC have considered paragraphs C11- C21 of the Non-compliance hearings guidance for medical practitioner tribunals and submitted that an order of conditions would not be appropriate, proportionate, workable or measurable. Mr Thomas further submitted that Dr Simaviciute has disengaged with these proceedings and stated that there is no evidence to suggest that she would comply with any conditions if imposed. Ms Thomas submitted that there has been no mitigation put forward by Dr Simaviciute and, therefore, conditions would not be sufficient to protect patient safety given the concerns raised about Dr Simaviciute.

19. Ms Thomas submitted that a continued order of suspension of Dr Simaviciute's practice would protect public safety and is otherwise in the public interest. Ms Thomas reminded the Tribunal that Dr Simaviciute has had since March 2022 to undergo the Performance Assessment, but, to date she has not. Ms Thomas further submitted that Dr Simaviciute has not engaged in any meaningful way, or at all, since the first non-compliance hearing. Ms Thomas informed the Tribunal that Dr Simaviciute's practice is not currently subject to an interim order.

The Tribunal's determination

20. The Tribunal has considered the evidence before it and the submissions of Ms Thomas. The Tribunal also had regard to the relevant paragraphs of the guidance in particular those that reference sanction.

21. The Tribunal is aware that the decision as to the appropriate sanction, if any, to impose on Dr Simaviciute's registration is a matter for this Tribunal exercising its independent judgment. In reaching its decision, the Tribunal has taken account of the guidance.

22. Throughout its deliberations, the Tribunal has considered its overarching objective and has borne in mind that the purpose of a sanction is not to punish or discipline doctors, but they may have a punitive effect.

No Action

23. The tribunal first considered whether to conclude Dr Simaviciute's case and take no further action.

24. The Tribunal considered that there were no exceptional circumstances in this case to justify it taking no action. It also considered that taking no action would not serve the public interest, nor would it satisfy the need to maintain public confidence in the profession or uphold proper professional standards. Therefore, the Tribunal determined that taking no action would not be an appropriate or proportionate outcome to this case.

Conditions

25. The Tribunal next considered whether it would be appropriate to impose a period of conditions on Dr Simaviciute's registration. It has borne in mind that any conditions must be appropriate, proportionate, workable and measurable.

26. The Tribunal is satisfied that, given its previous finding of non-compliance and Dr Simaviciute's seeming disengagement from these proceedings that conditions would not be appropriate, proportionate, workable or measurable. There is no evidence to suggest that Dr Simaviciute would comply with any conditions imposed.

Suspension

27. Having determined that the imposition of conditions would not be appropriate, the Tribunal considered whether to suspend Dr Simaviciute's registration for a further period.

28. The Tribunal has further reminded itself that Dr Simaviciute has not engaged with these proceedings and has determined that there has been no change to the circumstances of the case to warrant amending the currently imposed order. The Tribunal is satisfied that a further order of suspension is necessary to protect the public and is otherwise in the public interest.

29. The Tribunal has determined to suspend Dr Simaviciute's registration for a period of 12 months. The Tribunal considered that Dr Simaviciute require this period in order to comply with the GMC direction to undergo a Performance Assessment.

30. The effect of this direction is that, unless Dr Simaviciute exercises her right of appeal, this decision will take effect 28 days from when written notice of this determination is deemed to have been served upon her. If she does decide to appeal against this decision, the suspension currently imposed on her registration will remain in force until the appeal is determined.

31. A Tribunal will review Dr Simaviciute's case at a hearing to be held before the end of the period of suspension. It will then consider whether it should take any further action in relation to her registration. Dr Simaviciute will be informed of the date of that meeting, which she will be expected to attend. The Tribunal reviewing Dr Simaviciute's case would be assisted by receiving the following:

- Evidence that Dr Simaviciute has undergone a GMC-directed PA, along with

- the results of that assessment;
 - Any further information Dr Simaviciute considers will assist the Tribunal.
32. That concludes this hearing.

ANNEX A – 14/02/2025

Determination: Service and proceeding in absence

33. Dr Simaviciute is neither present nor represented today. The Tribunal therefore considered whether to continue the hearing in her absence.

Submissions on Service

34. Ms Thomas submitted that there has been good service on Dr Simaviciute. Ms Thomas directed the Tribunal's attention to the notice of this hearing (NoH) which was sent by the Medical Practitioners Tribunal Service in accordance with Rule 20(1)(a) of the Fitness to Practise Rules 2004, on 27 June 2024 to Dr Simaviciute's registered email address. Confirmation has been received that this email was successfully delivered.

Tribunal determination on Service

35. The Tribunal firstly considered whether the relevant documents had been served in accordance with Rule 40 of the General Medical Council ('GMC') Fitness to Practise Rules 2004 ('the Rules') and paragraph 8 of the fourth Schedule to the Medical Act.

36. The Tribunal had regard to the proof of service bundle provided by the GMC, as well as the submissions made by Ms Thomas.

37. The Tribunal has borne in mind that it is the responsibility of Dr Simaviciute to keep her registered address up to date with the GMC. The Tribunal has decided that notice of this hearing has been served in accordance with Rule 40 of the General Medical Council (Fitness to Practise) Rules 2004 and paragraph 8, Schedule IV of the Medical Act.

Submissions on Proceeding in the Doctor's Absence

38. Ms Thomas submitted that under Rule 31, it would be reasonable to proceed in Dr Simaviciute's absence. She submitted that the GMC has made all reasonable attempts to notify Dr Simaviciute of these proceedings. Dr Simaviciute has not responded to the NoH and has not engaged with these proceedings. Ms Thomas submitted that an adjournment has not been requested and there is no evidence to suggest that an adjournment would guarantee the doctor's attendance, or indeed her engagement in these proceedings. Ms Thomas submitted that it is in the public interest and in the interest of justice to proceed today in the absence of the doctor.

Tribunal determination on Service

39. Having been satisfied that notice was properly served upon Dr Simaviciute, the Tribunal then considered whether to proceed with this hearing in her absence, in accordance with Rule 31 of the Rules.

40. The Tribunal has balanced Dr Simaviciute's interests with the public interest in deciding whether to proceed in her absence. The Tribunal is satisfied that all reasonable efforts have been made to serve Dr Simaviciute with notice of these proceedings. It was also of the view that Dr Simaviciute has not requested an adjournment and that, as an adjournment would not guarantee the doctor's attendance at a later hearing, an adjournment would serve no useful purpose. In accordance with Rule 31, the Tribunal considers that it is appropriate to proceed in Dr Simaviciute's absence and this would cause no injustice to the doctor.