MPTS Medical Practitioners Tribunal Service

PUBLIC RECORD

Dates: 23/06/2025 - 26/06/2025

Doctor:	Dr Jacek LEWIT
GMC reference number:	6157971
Primary medical qualification:	Lekarz Military Medical Academy Lodz

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

Summary of outcome

Erasure

Immediate order imposed

Tribunal:

Legally Qualified Chair	Ms Morag Rea
Lay Tribunal Member:	Mr John Kelly
Registrant Tribunal Member:	Dr Becky McGee

Tribunal Clerk:	Mrs Jennifer Ireland

Attendance and Representation:

Doctor:	Present, not represented
Doctor's Representative:	N/A
GMC Representative:	Ms Anam Khan, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

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

Determination on Facts - 24/06/2025

Background

1. Dr Lewit qualified in 1994 at Military Medical Academy Lodz, Poland. He joined the UK Medical Register in 2007. At the time of the events, Dr Lewit was practising as a Consultant in acute medicine at Darlington Memorial Hospital ('the Hospital') as part of County Durham and Darlington NHS Foundation Trust ('CDDFT'). He resigned from this post in early 2025.

2. The allegation that has led to Dr Lewit's hearing can be summarised as follows: Between August 2019 and May 2021, Dr Lewit is alleged to have completed locum shifts at South Tyneside and Sunderland NHS Foundation Trust ('STSFT') whilst he was contracted to work at CDDFT. This was primarily on days he was scheduled to work from home, completing supporting professional activities ('SPA'), such as administrative tasks. It is further alleged that between December 2021 and February 2022, Dr Lewit completed locum shifts for North Tees and Hartlepool NHS Foundation Trust ('NTHFT'), whilst he was contracted to work at CDDFT, completing SPA.

3. It is alleged that Dr Lewit was aware that he was not permitted to undertake locum work at another trust on days he was contracted and paid to work at CDDFT, and without prior agreement from CDDFT. It is further alleged that Dr Lewit's actions were dishonest.

4. On 26 January 2021, a colleague discovered that Dr Lewit was working additional shifts and told him to stop undertaking locum work at STSFT. It is alleged that Dr Lewit failed to stop undertaking shifts or failed to seek CDDFT agreement to him undertaking those shifts. In December 2021, a colleague learned that Dr Lewit was again undertaking additional shifts while contracted to work at CDDFT and reported the matter to the Hospital. A local investigation was undertaken which concluded in October 2022, and a referral was made to the GMC at the conclusion.

The Outcome of Applications Made during the Facts Stage

5. The Tribunal granted an application made by Ms Khan, Counsel, on behalf of the GMC, pursuant to Rules 15 and 40 of the Rules and determined that notice of this hearing had been properly served on Dr Lewit. It also granted the GMC's application made pursuant to Rule 31 of the Rules to proceed with the case in Dr Lewit's absence. The Tribunal's full decision is included at Annex A.

The Allegation and the Doctor's Response

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

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

1. Whilst contracted to work at County Durham and Darlington NHS Foundations Trust ('CDDFT') you undertook paid locum shifts at:

    a. South Tyneside and Sunderland NHS Foundation Trust ('STSFT') on one or more of the dates set out in Schedule 1; To be determined.

    b. North Tees and Hartlepool NHS Foundation Trust ('NTHFT') on one or more of the dates set out in Schedule 2. To be determined.

2. After 26 January 2021 you failed to:

    a. stop undertaking locum work at STSFT despite providing verbal assurances to CDDFT managers that you would stop; To be determined.

    b. in the alternative to paragraph 2.a. seek CDDFT agreement to continue to undertake locum work at STSFT. To be determined.

3. On 8 December 2021 you agreed to undertake paid locum shifts at NTHFT when contracted to work at CDDFT on consecutive Mondays and Tuesdays each week on the dates set out in Schedule 3. To be determined.

4. You knew that you were:

    a. not permitted to undertake locum shift work at another Trust:

i. on days and times you were contracted and paid to work at CDDFT; To be determined.

ii. without the prior agreement of CDDFT; To be determined.

b. being paid for work at CDDFT which you had not performed. To be determined.

5. Your conduct described in:

a. paragraph 1 was dishonest by reason of paragraph 4; To be determined.

b. paragraph 3 was dishonest by reason of paragraph 4.a. To be determined.

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

The Facts to be Determined

7. In light of the Tribunal's decision to proceed in Dr Lewit's absence and the fact Dr Lewit is unrepresented, the Tribunal should approach the admissions made in a different way to how admissions are dealt with under Rule 17. The Tribunal was also provided with an email from Dr Lewit, dated 13 May 2025, in which he stated that he '*fully admitted*' the Allegation but gave no specific responses to each particular and did not address dishonesty directly.

8. The Tribunal was aware that there was a long-standing convention that any admissions should be given due credit, but considered that the Tribunal should still go through the process of making brief findings where the doctor was unrepresented. That was particularly important where the charges may lead to potentially serious outcomes in the proceedings. As this case involved dishonesty, the Tribunal decided out of an abundance of caution to make its own findings rather than announce them as '*admitted*' at the outset of the hearing as the rules indicate.

Witness Evidence

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

- Dr A, Consultant in Anaesthetics and Intensive Care at CDDFT;

- Dr B, Clinical Lead for Acute Medicine at the Hospital;
- Ms C, General Manager for the Acute Medicine Unit at the Hospital;
- Ms D, Deputy Director of Human Resources and Organisation Development at STSFT; and
- Ms E, Rota Coordinator for Medicine and A&E at NTHFT.

10. Dr Lewit provided his own witness statement dated 13 May 2025.

Documentary Evidence

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

- Email exchange with STFST confirming Dr Lewit worked shifts there until May 2021;
- Timesheets for the shifts worked by Dr Lewit at STFST between August 2019 and May 2021;
- Email exchange with NTHFT providing list of shifts Dr Lewit had planned or worked;
- CDDFT 'ACP Rotas' for 2019, 2020 and 2021, showing Dr Lewit's rota;
- CDDFT Trust Investigatory Interview Notes of Dr B and Dr E, dated 12 April 2022;
- CDDFT Trust Investigatory Interview Notes of Dr Lewit, dated 26 April 2022 and 12 September 2022.

The Tribunal's Approach

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

13. In respect of the allegation that Dr Lewit acted dishonestly, the Tribunal applied the test laid down by the Supreme Court in *Ivey v Genting Casinos (UK) Ltd* [2017] UKSC 67, namely that the Tribunal should first ascertain subjectively the actual state of Dr Lewit's knowledge or belief as to the facts. Whether the belief is reasonable may be a matter of evidence, but reasonableness is not an additional requirement when considering whether the belief was genuinely held. The Tribunal should then ascertain whether his conduct was dishonest applying the objective standards of ordinary decent people.

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1(a)

15. The Tribunal first considered the 111 shifts Dr Lewit was alleged to have worked at STSFT. It took into account that these were undertaken regularly beginning in August 2019 and continuing until May 2021. These shifts were confirmed by both STSFT and the locum agency as having been worked by Dr Lewit and payment issued to him. The Tribunal was also provided with a copy of CDDFT's 'ACP Rotas' for 2019 to 2021, which shows that each of the shifts coincide with a date on which Dr Lewit was being paid to work at CDDFT.

16. The Tribunal noted that Dr Lewit accepted, in his written statement prepared for this hearing, that he had worked the shifts set out in Schedule 1 at times when he was scheduled and being paid to work at CDDFT.

17. In light of the evidence, and the clear admission from Dr Lewit that he had worked the shifts, the Tribunal found paragraph 1(a) of the Allegation proved.

Paragraph 1(b)

18. The Tribunal considered the five shifts Dr Lewit was alleged to have worked at NTHFT between 13 December 2021 and 11 January 2022. These shifts were confirmed by both NTHFT and the locum agency as having been worked by Dr Lewit and payment issued to him. The Tribunal also had regard to the 'ACP Rotas' provided by CDDFT, which show that these were times that Dr Lewit was being paid to work at CDDFT.

19. The Tribunal noted that Dr Lewit accepted, in his written statement prepared for this hearing, that he had worked the shifts set out in Schedule 2 at times when he was scheduled and being paid to work at CDDFT.

20. In light of the evidence, and the clear admission from Dr Lewit that he had worked the shifts, the Tribunal found paragraph 1(b) of the Allegation proved.

Paragraph 2(a)

21. The Tribunal next considered whether Dr Lewit failed to stop undertaking shifts after he was told to stop on 26 January 2021. Dr Lewit accepts that Dr F had a conversation with him on 26 January 2021, and that he had been told to stop undertaking the additional work whilst he was contracted to work at CDDFT. This is supported by the evidence given by Dr F in his investigation meeting with CDDFT, who was clear that he had told him to stop, and at the time had not taken further action as he had been assured by Dr Lewit that he would not do it again.

22. Further, Dr B had also had a conversation with Dr Lewit in January 2021, after he had been made aware of him undertaking locum shifts during the working week. Dr Lewit had assured him that it would not happen again. Dr Lewit accepts that this conversation had taken place.

23. The timesheets provided shows that Dr Lewit continued to undertake shifts at STSFT until May 2021 at times when he was contracted to work at CDDFT. The Tribunal also noted that Dr Lewit admits to having continued after he was told to stop.

24. Accordingly, the Tribunal found paragraph 2(a) of the Allegation proved.

Paragraph 2(b)

25. The Tribunal noted that this paragraph of the Allegation was issued '*in the alternative*' to paragraph 2(a). As the Tribunal has found paragraph 2(a) of the Allegation proved, it cannot also find the alternative. Therefore, paragraph 2(b) of the Allegation is not proved.

Paragraph 3

26. The Tribunal had regard to an email with Dr Lewit's locum agency which shows that Dr Lewit had arranged to work the 13 shifts set out in Schedule 3, which were all scheduled for dates he would have been working for CDDFT. Dr Lewit also admits that he had scheduled those shifts.

27. Accordingly, the Tribunal found paragraph 3 of the Allegation proved.

Paragraph 4(a) and (b)

28. The Tribunal next considered whether Dr Lewit knew that he was not permitted to work locums shifts during his contracted hours at CDDFT, without prior agreement, and whilst being paid by CDDFT for work he had not performed. It had regard to Dr Lewit's evidence, submitted to both the GMC and to CDDFT.

29. In his statement to CDDFT on 8 July 2022, Dr Lewit stated *'I know it was wrong and unacceptable decision, I regret these actions and cordially apologise'.* Further, in his investigation meeting with CDDFT on 26 April 2022, he was clear at the outset of the meeting that '*it is entirely my own fault*' that the meeting had been called and admitted to working the shifts.

30. It was clear to the Tribunal that Dr Lewit was aware and admitted that he should not have been working shifts at other hospitals when he was contracted to and accepting payment for working at CDDFT. Further, after 26 January 2021, and the conversations with Dr F and Dr B, Dr Lewit was undoubtedly aware that he should not be undertaking locum work whilst he was being paid for work at CDDFT, as he had been expressly told not to.

31. Further, there is no evidence before the Tribunal to demonstrate that Dr Lewit thought at any time he was permitted to undertake locum work during his contracted hours. The Tribunal noted too that Dr Lewit's contract is not exhibited in the bundle nor is any local policy describing how permission could be sought to undertake locum shifts. The Tribunal balanced this against the fact that Dr Lewit has had the opportunity both in the internal investigations and for these proceedings to highlight any evidence that he was permitted to undertake this work and has not. The Tribunal also accepted that Dr Lewit had admitted to this paragraph of the Allegation.

32. Accordingly, the Tribunal found paragraphs 4(a) and 4(b) of the Allegation proved.

Paragraph 5(a) and (b)

33. The Tribunal had regard to the test set out in *Ivey* and noted that Dr Lewit has expressed from the outset of matters that he knew it was wrong to work the additional shifts at STSFT and NTHFT. The Tribunal took into account the statement prepared by Dr Lewit for the purposes of this hearing, signed and dated 13 May 2025, in which he variously describes his actions as *'unwise decisions', 'past mistakes'* and *'nonprofessional'*. He describes his state

of mind at the time as *'lost due to high levels of stress in his personal life'* which impaired his ability to consider the consequences of his actions. He also explained that he was under financial pressure to assist his family XXX.

34. The Tribunal noted that Dr Lewit had worked 116 locum shifts at times he should have been working for CDDFT. This persisted over more than two years, starting in August 2019, and continuing until January 2022.

35. Further, Dr Lewit admits that conversations took place in January 2021, in which he was told not to do it. The evidence before the Tribunal demonstrates that, after these conversations, Dr Lewit continued to undertake regular shifts until May 2021, and scheduled further shifts between December 2021 and February 2022, five of which he worked.

36. The Tribunal therefore concluded that Dr Lewit's actions, in the light of his acceptance that he was aware he should not be working locum shifts whilst he should have been working at CDDFT, were dishonest.

37. Accordingly, the Tribunal found paragraphs 5(a) and 5(b) of the Allegation proved.

The Tribunal's Overall Determination on the Facts

38. The Tribunal has determined the facts as follows:

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

1. Whilst contracted to work at County Durham and Darlington NHS Foundations Trust ('CDDFT') you undertook paid locum shifts at:

    a. South Tyneside and Sunderland NHS Foundation Trust ('STSFT') on one or more of the dates set out in Schedule 1; **Determined and found proved.**

    b. North Tees and Hartlepool NHS Foundation Trust ('NTHFT') on one or more of the dates set out in Schedule 2. **Determined and found proved.**

2. After 26 January 2021 you failed to:

    a. stop undertaking locum work at STSFT despite providing verbal assurances to CDDFT managers that you would stop; **Determined and found proved.**

b. in the alternative to paragraph 2.a. seek CDDFT agreement to continue to undertake locum work at STSFT. **Not proved.**

3. On 8 December 2021 you agreed to undertake paid locum shifts at NTHFT when contracted to work at CDDFT on consecutive Mondays and Tuesdays each week on the dates set out in Schedule 3. **Determined and found proved.**

4. You knew that you were:

a. not permitted to undertake locum shift work at another Trust:

i. on days and times you were contracted and paid to work at CDDFT; **Determined and found proved.**

ii. without the prior agreement of CDDFT; **Determined and found proved.**

b. being paid for work at CDDFT which you had not performed. **Determined and found proved.**

5. Your conduct described in:

a. paragraph 1 was dishonest by reason of paragraph 4; **Determined and found proved.**

b. paragraph 3 was dishonest by reason of paragraph 4.a. **Determined and found 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 - 25/06/2025

39. 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 Lewit's fitness to practise is impaired by reason of misconduct.

The Evidence

40. The Tribunal has taken into account all the evidence received during the facts stage of the hearing. In addition, the Tribunal received an email from Dr G with an attachment letter dated 30 November 2023.

41. The Tribunal did not have the benefit of hearing oral evidence from Dr Lewit about his reflections and insight. It did not have evidence of Continual Professional Development ('CPD') and has not been provided any evidence from CDDFT as to the standard and efficiency of his working practice over the relevant period, or whether there was any direct impact on patients and colleagues.

Submissions

42. On behalf of the GMC, Ms Khan submitted that Dr Lewit's actions amounted to serious misconduct and that his fitness to practise is currently impaired by reason of his misconduct. She directed the Tribunal to the principles set out in Good Medical Practice (2024) and to relevant authorities on impairment.

43. Ms Khan submitted that Dr Lewit has been found to have acted dishonestly by performing locum agency work at two hospitals between August 2019 and January 2022, whilst knowing that he was not permitted to undertake locum shift work at another trust on the days and times that he was contracted to work and was being paid by his employing trust. Further, she stated that Dr Lewit had failed to cease doing that locum work after 26 January 2021, despite the assurances that he had given to his employing trust that he would do so. She submitted that such conduct falls seriously short of the conduct expected of doctors and can properly be considered both deplorable and as constituting grievous failures.

44. Ms Khan reminded the Tribunal that dishonesty is not easily remediable, and the Tribunal must look carefully at the evidence of any action taken by Dr Lewit to remedy his misconduct.

45. Ms Khan submitted that Dr Lewit's actions had brought the profession into disrepute. She stated that a member of the public would be shocked to learn that whilst Dr Lewit was being paid by his employing trust for work that he was contracted to do, he was carrying out locum shifts for other trusts without the knowledge or approval of CDDFT, and was in turn in receipt of public money which he knew he was not entitled to. Further, having been confronted and providing the assurance that he would cease the practice of working locum

shifts, he continued for another three months until 11 May 2021. She stated that his actions were clearly dishonest and had breached fundamental tenets of the profession, namely the requirement to act with honesty and integrity. She submitted that a finding of dishonesty lies at the top end in the spectrum of gravity of misconduct.

46. Ms Khan submitted that Dr Lewit had been responsive in his admissions to CDDFT rather than proactively admitting the full scale of his locum work. She stated that he did not volunteer that he had been working at more than one trust, and only admitted to shifts directly put to him in questions. She referred the Tribunal to the investigation meeting notes from both of Dr Lewit's meetings, and the responses to questions, which she submitted minimised the scale of his conduct and did not include full and frank admissions about the scale of the locum work he had been doing.

47. Ms Khan submitted that Dr Lewit has undertaken some remediation efforts, including entering a formal plan with CDDFT to repay the money that he was not entitled to receive. She reminded the Tribunal that the CDDFT investigation covered a shorter period of time than the relevant period in the Allegation, and as such the amount of money that CDDFT sought to recover was £17,390, reflecting the 36 extra shifts that had been worked illicitly. She submitted that this money was repaid by Dr Lewit working 12 additional 12-hour bank shifts without payment. She stated that whilst this may have been acceptable to CDDFT based on the limited investigation, it would be inaccurate to say that Dr Lewit has made complete financial recompense because he appears not to have repaid the money received for shifts worked between August 2019 and November 2020.

48. Ms Khan submitted that Dr Lewit had submitted a statement to the Tribunal, dated 13 May 2025, in which he attempts to reflect on his conduct and expresses remorse and apology. Further, she stated that Dr Lewit had identified triggers for his behaviour, which appeared to have been a poor financial situation, with some additional stressors. She submitted that Dr Lewit does appear to recognise that the decisions he made were unwise. However, Ms Khan submitted that there was a glaring omission in his statement as Dr Lewit has not reflected on how his conduct fell short of the standard expected of medical practitioners, how it impacted the profession, how it may have breached Good Medical Practice (2024), how he may have brought the profession into disrepute, and how he would ensure he behaves differently next time he is faced with the same difficulties.

49. Ms Khan submitted that Dr Lewit's reflections focus on the pure financial impact of his conduct, and suggests that because he has made good financial recompense to CDDFT,

that constitutes remediation. She stated that, even if full financial recompense was made in this case, that would be insufficient evidence of remediation. She submitted that, despite Dr Lewit's apologies and remorse, remediation in this case remains incomplete, especially as the dishonesty was persistent and sustained.

50. Ms Khan submitted that Dr Lewit's reflections are incomplete and did not demonstrate sufficient insight into his conduct or the impact on the profession as a whole. Further, she submitted that Dr Lewit seems to suggest that the desperation that he felt due to his personal situation made his dishonesty inevitable.

51. Ms Khan referred the Tribunal to the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin. She submitted that limbs (b), (c) and (d) of the test were engaged in this case.

52. Ms Khan submitted that the gravity of this case is such that the Tribunal should conclude that Dr Lewit's fitness to practise is impaired in order to protect the public interest and uphold the overarching objective. She submitted that a finding of impairment satisfies the need for there to be a firm declaration of professional standards so as to promote public confidence in the profession, and to mark the seriousness of the misconduct so that the public and the rest of the profession recognise that dishonesty is taken seriously.

The Relevant Legal Principles

53. 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 judgment alone.

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

55. The Tribunal must determine whether Dr Lewit's fitness to practise is impaired today, taking into account his 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.

56. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

> *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.'*

57. Throughout its deliberations, the Tribunal had regard to all the three limbs of the statutory overarching objective, namely to:

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

The Tribunal's Determination on Impairment

Misconduct

58. In determining whether Dr Lewit's fitness to practise is impaired by reason of misconduct, the Tribunal first considered whether the admitted facts and facts found proved amounted to serious misconduct.

59. The Tribunal noted Ms Khan's submissions and her references to Good Medical Practice (2024). The Tribunal was mindful that the version relevant to its consideration was Good Medical Practice (2013) ('GMP'), the guidance in effect at the time of events. It had regard to paragraphs 65 and 77 of GMP, which provide:

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

…

77 You must be honest in financial and commercial dealings with patients, employers, insurers and other organisations or individuals.'

60. The Tribunal was satisfied that Dr Lewit's actions in each of the paragraphs and sub-paragraphs of the Allegation, individually amounted to misconduct. In particular, dishonestly working locum shifts at other trusts whilst he was contracted and being paid to work at CDDFT was conduct that fell short of the behaviour required of a doctor and was a clear breach of the standards articulated in GMP. Whilst dishonesty can occur in a variety of ways, in the Tribunal's view, Dr Lewit's misconduct was serious. In reaching this conclusion, the Tribunal considered that his dishonest conduct occurred over a more than two-year period, involved 116 shifts, and continued after he was told to stop doing this by two senior colleagues and agreed to do so.

61. The Tribunal was satisfied that fellow practitioners would be shocked to learn what Dr Lewit had done and would agree that his conduct was unacceptable. The Tribunal was satisfied that Dr Lewit's conduct was in direct breach of the paragraphs of GMP set out above, because it involved serious dishonesty and so breached the trust the public places in its doctors.

62. The Tribunal has concluded that Dr Lewit's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct.

Impairment by reason of misconduct

63. Having determined that the facts found proved amounted to serious misconduct, the Tribunal went on to consider whether, as a result of that misconduct, Dr Lewit's fitness to practise is currently impaired.

64. The Tribunal considered whether Dr Lewit's conduct was capable of being remedied, has been remediated, and whether it was highly unlikely to be repeated. In so doing, the Tribunal considered the available evidence in respect of insight and remediation.

65. The Tribunal was mindful that dishonesty is difficult to remediate but not impossible. It looked for evidence of insight, remediation and the likelihood of repetition and balanced those against the three limbs of the statutory overarching objective.

66. In considering the issue of insight and remediation, the Tribunal had regard to the statement submitted by Dr Lewit, and his acceptance of the Allegation from an early stage in proceedings. It considered that Dr Lewit has shown an understanding of the need to be a good work colleague, and clearly demonstrated remorse for his actions. The Tribunal noted that Dr Lewit had, as far back as 2022, made efforts to repay CDDFT for the work he had not completed, by completing 65 hours of unpaid work of his own volition, out of a total of 304.5 hours during which he should have only been working at CDDFT. Further, the Tribunal was provided with a signed letter and email from CDDFT which confirmed that Dr Lewit had also repaid a sum of £13,677.85 over a 12-month period by working additional unpaid shifts.

67. However, the Tribunal was of the opinion that Dr Lewit still lacks insight into the impact of his actions on others, particularly the impact on patients, colleagues and the wider profession. Whilst Dr Lewit has considered the pressures his personal stressors had put on him, and how that led to his misconduct, he has not fully explored the impact that dishonest conduct, particularly where that involves claiming payments for work he has not completed, has on the reputation of the profession. Whilst he accepts that his behaviour was '*unwise'*, *'mistakes'* and *'nonprofessional'*, at no stage does he acknowledge that his conduct was serious dishonesty.

68. Further, the Tribunal accepted Ms Khan's submission that Dr Lewit had been *'responsive rather than proactive'* in his admissions to CDDFT, as he had not been fully transparent about the scale of his actions, which limited the investigation. As a result, Dr Lewit was only asked to repay a sum of funds relating to shifts between December 2020 and March 2022, that were identified as part of the CDDFT investigation. This unfortunately limited the remedial opportunity offered by CDDFT.

69. The Tribunal next considered the risk of repetition. It took into consideration that this was sustained dishonesty over a more than two-year period, which continued after Dr Lewit had been told to stop his actions. Considering this alongside his limited insight, the Tribunal was of the view that a risk of repetition remains.

70. In considering Dr Lewit's conduct against the test as set out in *Grant,* the Tribunal concluded that three of the four limbs of the test were engaged. The Tribunal considered that Dr Lewit's conduct brought the medical profession into disrepute and that he had breached a fundamental tenet of the profession. The Tribunal also noted that Dr Lewit has been found to have acted dishonestly.

71. In considering whether Dr Lewit's fitness to practise is currently impaired, the Tribunal balanced his limited insight and the assessed limited risk of repetition against the overarching objective.

72. The Tribunal considered that Dr Lewit's dishonesty would damage public confidence in the profession if a finding of impairment was not made. The Tribunal was satisfied that an informed member of the public would be extremely concerned about a doctor acting in the way Dr Lewit did and would find it difficult to understand why a Tribunal would not find that his fitness to practise was impaired. The Tribunal was also of the view that given its findings of fact and serious misconduct, a finding of impairment of fitness to practise was necessary to promote and maintain proper standards of conduct for the medical profession. The Tribunal was not satisfied that this was a sufficiently exceptional case that a finding of impairment should not be made in the light of its findings of dishonesty.

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

Determination on Sanction - 26/06/2025

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

Submissions

75. On behalf of the GMC, Ms Khan submitted that the only sanction sufficient to meet the overarching objective was one of erasure. Throughout her submissions, she referred the Tribunal to relevant paragraphs of the Sanctions Guidance (2024) ('the SG').

76. Ms Khan reminded the Tribunal that Dr Lewit breached GMP, by dishonestly performing locum agency work at two hospitals between August 2019 and January 2022, whilst receiving money for work that he was not doing for his employing trust. She submitted that his dishonesty can be characterised as persistent. Had it not been for Dr B escalating matters to the Hospital in December 2021, it was not clear if Dr Lewit would have stopped working locum shifts at other hospitals of his own volition. She stated that it was likely he would have continued with his arrangement at NTHFT until at least the end of the local arrangement on 1 March 2022. Further, she submitted that Dr Lewit has not been fully transparent, either during the CDDFT investigation or during these proceedings about the extent of his locum work, and he has failed to recognise the severity of his conduct.

77. Ms Khan submitted that this was sustained dishonesty over more than a two-year period, which persisted even after Dr Lewit had been spoken to by colleagues and gave reassurances that he would stop performing locum shifts elsewhere. She stated that it was particularly significant that in the first instance, his colleagues did not seek to escalate matters, but rather sought to resolve matters informally with Dr Lewit, although he appears to have paid no regard to that.

78. Ms Khan reminded the Tribunal that the reputation of the profession as a whole is more important than the interests of any individual doctor.

79. Ms Khan submitted that Dr Lewit's actions were clearly too serious to be dealt with by taking no action. She stated that it would not be appropriate, proportionate nor in the public interest. Further, this was not an exceptional case that would justify taking no action. She submitted that conditions are not appropriate to deal with an allegation of dishonesty. Further, she stated that conditions would not be sufficient to meet the overarching statutory objective, given the seriousness of Dr Lewit's conduct.

80. Ms Khan submitted that suspension is a possible outcome and would send out a message to Dr Lewit and the profession about the standards expected of doctors. She submitted that the circumstances which set out where suspension is appropriate are inconsistent with the Tribunal's findings, as it found that a risk of repetition does remain in this case. She submitted that this was a case where the doctors conduct is fundamentally incompatible with continued registration and therefore erasure is the appropriate sanction.

81. Ms Khan accepted that there was some evidence that Dr Lewit has taken some steps towards remediation, especially in respect of making financial recompense. However, she stated that there is lack of remediation efforts beyond financial repayment, such as seeking to rectify any deficiencies within his outlook by embarking on any ethics courses, and he has not properly reflected on the impact of his conduct, despite now having three years to do so. She stated that he has failed to appreciate in that time that his conduct was serious dishonesty.

82. Ms Khan submitted that there has been a serious departure from the principles set out in GMP, and a deliberate and reckless disregard for those principles. She stated that he had abused the trust placed in him by his employer. Further, she submitted that this was a case of persistent and sustained dishonesty. She submitted that there is some evidence before the Tribunal that Dr Lewit was not candid or forthcoming in the early stages of the CDDFT investigation, and this was suggestive of trying to cover up some of his conduct. She submitted that the passage of time suggests a persistent lack of insight into the seriousness of his actions.

83. In respect of aggravating factors, Ms Khan submitted that Dr Lewit's actions represent a significant departure from GMP and is conduct which is difficult to remediate. She stated that Dr Lewit acted deliberately, and therefore deliberately disregarded GMP. She reminded the Tribunal that Dr Lewit has limited insight and there was a failure to be transparent with the investigation at CDDFT and in the course of these proceedings. Ms Khan also submitted that there was a failure to work collaboratively with colleagues and was misleading his colleagues with his actions.

84. Ms Khan submitted that, in respect to mitigating factors, Dr Lewit has not put much material before the Tribunal, however, he does make reference to his personal circumstances at the time, which resulted in what he accepts was unwise decision making. She stated that it was also notable that Dr Lewit does not have a previous fitness to practise history and there has been no repetition since 2022. Notwithstanding that mitigation, Ms Khan submitted that erasure was the appropriate sanction in this case.

The Relevant Legal Principles

85. The Tribunal reminded itself that the decision as to the appropriate sanction to impose, if any, was a matter for it alone, exercising its own judgment. In reaching its decision

on sanction, the Tribunal had regard to the SG, reminding itself that it was guidance and could be departed from provided there was a good reason. It bore in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it noted that any sanction imposed may have a punitive effect. It reminded itself that in deciding what sanction, if any, to impose, it should consider the sanctions available, starting with the least restrictive.

86. Throughout its deliberations, the Tribunal had regard to the overarching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promotion and maintenance of proper professional standards and conduct for members of the profession. It applied the principle of proportionality, balancing Dr Lewit's interests with the public interest.

87. The Tribunal was also directed to the principles set out in *Parkinson v NMC* [2010] EWHC 1895 Admin, which provides:

> *'18. A nurse found to have acted dishonestly is always going to be at severe risk of having his or her name erased from the register. A nurse who has acted dishonestly, who does not appear before the Panel either personally or by solicitors or counsel to demonstrate remorse, a realisation that the conduct criticised was dishonest, and an undertaking that there will be no repetition, effectively forfeits the small chance of persuading the Panel to adopt a lenient or merciful outcome and to suspend for a period rather than to direct erasure.'*

88. The Tribunal noted that there were some material differences between the circumstances in *Parkinson* and in Dr Lewit's case, Dr Lewit was not on sick leave while he was working as a locum. Additionally, and importantly, the Tribunal had been provided with some evidence from Dr Lewit, including a witness statement and proof of partial financial recompense from the Trust.

The Tribunal's Determination on Sanction

89. The Tribunal first identified what it considered to be the aggravating and mitigating factors in this case.

Aggravating factors

90. The Tribunal first gave consideration to Dr Lewit's insight. It was of the view that he does have limited insight and that he still lacks insight in specific areas, particularly the impact of his dishonesty on the wider profession.

91. The Tribunal considered that Dr Lewit's conduct was a significant departure from the principles set out in GMP. It involved deliberate and sustained dishonesty over a more than two-year period. Further, it involved a significant financial gain.

92. Dr Lewit had an opportunity to cease his dishonest conduct, having been told to stop his actions by two senior colleagues in January 2021, and assured those colleagues that he would do so. Having been trusted to act accordingly, Dr Lewit then abused his colleagues trust repeatedly for a further three months, and then again during December 2021. The Tribunal considered this to be a significant aggravating factor.

93. Dr Lewit was not fully transparent with CCDFT about the scale of his dishonesty. He limited his answers to specific questions and volunteered no extraneous information about the scale of his conduct. This behaviour limited the scope of CDDFT's investigation, and, as a result of that, limited the financial recompense that Dr Lewit was requested to and did make.

Mitigating factors

94. The Tribunal acknowledged that there no previous fitness to practise findings recorded against Dr Lewit, nor is there any evidence of repetition of his misconduct since 2022. The Tribunal decided that this was to Dr Lewit's credit although the Tribunal could attach little weight because that is no more than is to be expected of a doctor.

95. The Tribunal considered Dr Lewit's personal circumstances to be a mitigating factor. It took into account that, at the relevant time, Dr Lewit was experiencing significant financial pressures with the need to support his wider family in difficult circumstances, as well as other personal stressors. It was clear to the Tribunal that Dr Lewit was also working very hard on his own time, working additional shifts outside of his regular working hours, on weekends and bank holidays, on an acute medicine ward at a time of high need within the NHS. Whilst this did not excuse Dr Lewit's dishonesty, the Tribunal did consider it to be relevant background.

96. The Tribunal also took into account the two positive reference letters it has received in support of Dr Lewit. It noted that these were limited both in number, and in the scope of what they contained. The testimonials did not directly address the issues in the case; however, they did speak highly of Dr Lewit as a teammate and a clinician. It was clear to the Tribunal that Dr Lewit is otherwise a competent clinician who is well-regarded by his colleagues.

97. The Tribunal also took into account the two '*Excellence Reports*' noting occasions when Dr Lewit had gone above and beyond in his approach to patient care and to supporting his colleagues.

98. The Tribunal also took into account the fact that Dr Lewit was remorseful and had apologised to his team for his conduct.

99. The Tribunal balanced the aggravating and mitigating factors throughout its deliberations and went on to consider each sanction in order of ascending severity, starting with the least restrictive.

No action

100. The Tribunal first considered whether to conclude the case by taking no action. It noted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

101. The Tribunal was satisfied that there were no exceptional circumstances in Dr Lewit's case which could justify it taking no action. Further the Tribunal considered that concluding the case by taking no action would be insufficient to protect the public interest and would not mark the seriousness of Dr Lewit's dishonest conduct.

Conditions

102. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Lewit's registration. The Tribunal had regard to paragraphs 81, and 85 of the SG, which state:

> *'81 Conditions might be most appropriate in cases:*

a involving the doctor's health

b involving issues around the doctor's performance

c willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date throughout their working life, improving the quality of their work and promoting patient safety

…

85 Conditions should be appropriate, proportionate, workable and measurable.'

103. The Tribunal noted that the case did not fit within the examples in paragraph 81, as a type of case where conditions may be most appropriate.

104. The Tribunal considered that no conditions could be formulated which would be appropriate, workable or measurable. Further, the Tribunal determined that the imposition of conditions would not be sufficient to mark the seriousness of Dr Lewit's actions or to address the Tribunal's findings of impairment.

105. The Tribunal concluded that an order of conditions would not be appropriate to maintain public confidence in the profession, and to promote and maintain proper professional standards and conduct for members of the profession.

Suspension

106. The Tribunal then went on to consider whether a period of suspension would adequately protect the public, maintain public confidence in the profession and uphold proper standards for its members. In considering whether to impose a period of suspension on Dr Lewit's registration, the Tribunal had regard to paragraphs 91, 92 and 93 of the SG which provide:

'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).*

93 *Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions (see paragraphs 24–49)'*

107. The Tribunal also considered the SG at paragraphs 97(a), (e), (f) and (g), which it considered to be of particular relevance in this case:

'97 *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

a *A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.*

…

e *No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.*

f No evidence of repetition of similar behaviour since incident.

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

108. The Tribunal had regard to its findings that Dr Lewit's conduct constituted breaches of GMP including paragraphs 65 and 77 and that his actions breached a fundamental tenet of the profession, namely, to act honestly. The Tribunal was satisfied that the identified breaches represented a significant departure from GMP.

109. In considering whether Dr Lewit's conduct was fundamentally incompatible with continued registration, the Tribunal took into account the serious nature of the misconduct it has found. It recognised that dishonesty is serious and can undermine public confidence in the profession. It observed that dishonesty is difficult to remediate and assessed the dishonesty in this case to be at the higher end of the spectrum. It took into account that the dishonesty in this case was within a clinical setting and involved significant financial gain. It also had regard to Dr Lewit's lack of insight and the risk of repetition that it has already identified.

110. Further, the Tribunal had regard to the following paragraphs of the SG:

'124 Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.

125 Examples of dishonesty in professional practice could include:

a defrauding an employer

…'

111. The Tribunal was of the view that Dr Lewit defrauded his employer by not completing the work expected of him and claiming payment to which he was not entitled. The Tribunal noted that this was serious and significant dishonesty over a long period of time, which continued long after he had provided repeated assurances that he would not continue his actions. This failure to cease his conduct was a significant aggravating factor and could have a serious impact on public confidence in the profession.

112. The Tribunal had regard to the scale of Dr Lewit's dishonest conduct, which occurred on 116 separate occasions over more than two years. It also noted that, whilst there is no final sum for the scale of his financial gain, the evidence it has been provided suggests that there was a significant financial gain for Dr Lewit that has not been fully repaid. Whilst Dr Lewit did not actively conceal his actions, he was not open about the full scale of his dishonest conduct. The Tribunal was of the view that he has failed in his duty of candour, and that he had a responsibility to be completely honest with his employers, which he was not.

113. The Tribunal was of the view that, because of the seriousness of Dr Lewit's conduct, together with the lack of insight or meaningful remediation from him, it could not conclude that suspension was the appropriate sanction. Despite Dr Lewit's lack of previous adverse regulatory findings for dishonesty, and his long career, it was satisfied that suspension would not protect the public interest nor meet the statutory overarching objective, in respect of maintaining public confidence or promoting and maintaining professional standards. The Tribunal was satisfied that the circumstances of Dr Lewit's case were such that his misconduct, taken together with the ongoing lack of insight, is fundamentally incompatible with continued registration.

Erasure

114. The Tribunal therefore went on to consider whether the sanction of erasure was appropriate and proportionate.

115. The Tribunal had regard to paragraphs 108, 109(a), (b), (d), (h) and (j) of the SG and considered they were particularly relevant in Dr Lewit's case:

> *'108 Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence*

in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.

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

a A particularly serious departure from the principles set out in Good medical practice where the behaviour is difficult to remediate.

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

…

d Abuse of position/trust (see Good medical practice, paragraph 81: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession').

…

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

…

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

116. For the reasons previously set out in the determination, the Tribunal was satisfied that Dr Lewit's conduct engaged each of the above paragraphs.

117. The Tribunal acknowledged the need to balance the public interest with Dr Lewit's interests, and to be proportionate in determining sanction. The Tribunal also bore in mind

the judgment of the court in *Bolton v Law Society* [1994] 1 WLR 512 to the effect that the interests of the profession outweigh those of the individual. The Tribunal acknowledged that erasure will undoubtedly have a profound impact on Dr Lewit and will deprive the public of an otherwise good doctor. However, it concluded that the need to uphold the overarching objective took precedence, in particular limbs (b) and (c): to promote and maintain public confidence in the medical profession; and promote and maintain proper professional standards and conduct for the members of the profession.

118. In all the circumstances, the Tribunal concluded that Dr Lewit's interests are outweighed by the need to maintain public confidence in the profession and to declare and uphold proper standards of conduct and behaviour.

119. In the view of the Tribunal, bearing in mind the nature of the dishonest misconduct in this case together with the lack of insight demonstrated, Dr Lewit's misconduct was fundamentally incompatible with continued registration. Therefore, the only appropriate sanction in this case is to direct that Dr Lewit's name is erased from the medical register. The Tribunal concluded that a sanction of erasure was the only sanction that would mark the seriousness of Dr Lewit's misconduct and be sufficient to uphold the statutory overarching objective.

120. The Tribunal therefore determined to erase Dr Lewit's name from the medical register.

Determination on Immediate Order - 26/06/2025

121. Having determined that Dr Lewit's name should be erased from the medical register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order.

Submissions

122. On behalf of the GMC, Ms Khan submitted that the Tribunal should impose an immediate order. She referred the Tribunal to the relevant paragraphs of the SG and stated that it would be contrary to the public interest and public confidence in the profession if an immediate order was not made. She submitted that members of the public would be shocked if Dr Lewit was allowed to continue to practise unrestricted in light of the Tribunals findings

that Dr Lewit's conduct to be fundamentally incompatible with continued registration. She confirmed to the Tribunal that there was no interim order in place.

The Tribunal's Determination

123. In reaching its decision, the Tribunal considered the relevant paragraphs of the SG and exercised its own independent judgment. In particular, it took account of paragraphs 172, 173 and 178:

> '*172* *The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. …*
>
> *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.*
>
> …
>
> *178* *Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.'*

124. The Tribunal considered that there were no clinical concerns in this case, nor was an immediate order necessary to protect members of the public. It noted that Dr Lewit was no longer working in the UK and therefore, further time in practise would not be required to complete outstanding clinical work. An immediate order, therefore, would not have a negative impact on patient care or professional colleagues.

125. However, the Tribunal determined that an immediate order was necessary to uphold public confidence in the medical profession and is otherwise in the public interest. Further, it was necessary in order to uphold professional standards. The Tribunal was of the view that public confidence would be undermined if Dr Lewit was permitted to practise unrestricted,

given its finding that Dr Lewit's conduct was incompatible with continued registration, the serious nature of his misconduct, and the assessed risk of repetition. The wider medical profession would also be shocked if Dr Lewit was permitted to continue unrestricted practice in light of the Tribunal's findings.

126. This means that Dr Lewit's registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive direction, as already announced, will take effect 28 days from that date, 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.

127. There is no interim order in place.

128. That concludes this case.

ANNEX A – 24/06/2025
Service and Proceeding in Absence

129. Dr Lewit was neither present nor legally represented at this hearing. The Tribunal noted that in order to proceed with the hearing in Dr Lewit's absence, it needed to be satisfied that Dr Lewit was properly served with notice of the hearing and that it was appropriate for the hearing to proceed in his absence.

130. The Tribunal was provided with a copy of a service bundle from the General Medical Council (GMC). The service bundle indicates that, on 13 May 2025 at 10:17am, the GMC sent a Notice of Allegation letter to Dr Lewit via email. Dr Lewit acknowledged receipt of the email the same day.

131. The Tribunal also noted that, on 13 May 2025 at 1:30pm, the MPTS sent Dr Lewit a Notice of Hearing letter via email, confirming that his hearing would commence on 23 June 2025 and that it was expected to last ten days. The MPTS letter also requested confirmation from Dr Lewit as to whether he would be attending and provided information about the support available in relation to the hearing. Dr Lewit acknowledged receipt of the email and stated that he was no longer living at his registered address as he had left the UK. He did not provide an up-to-date postal address.

132. The Tribunal took into consideration the other emails in the service bundle between Dr Lewit and the GMC and MPTS. It noted that on several occasions Dr Lewit had reiterated that he would not be attending the hearing, citing stress, XXX, and his decision to leave the UK. The Tribunal noted that Dr Lewit had explained that he had no funds for legal representation.

GMC's Submissions

133. On behalf of the GMC, Ms Khan took the Tribunal through the service bundle and highlighted that the Notice of Hearing was sent to Dr Lewit via email, and he had acknowledged receipt, proving good service. She invited the Tribunal to conclude that service was effected in accordance with the GMC (Fitness to Practise) Rules 2004, as amended ('the Rules').

134. Ms Khan submitted that the Tribunal should proceed in Dr Lewit's absence in accordance with Rule 31 of the Rules. She submitted that it was clear that Dr Lewit had been properly served with notice of today's hearing. She stated that Dr Lewit had been clear in his correspondence to the GMC and MPTS that he would not be attending the hearing and would not be represented. She stated that Dr Lewit appears to have voluntarily absented himself from the proceedings and has made no request for an adjournment. Ms Khan stated that Dr Lewit has produced the evidence he wishes to place before the Tribunal and does not seek that the matter be determined on another date. She submitted that adjourning today would not have the effect of securing Dr Lewit's attendance at a later date and it was reasonable in all the circumstances to proceed in his absence.

The Relevant Legal Principles

135. The Tribunal had regard to the legal authority of *General Medical Council v Adeogba* [2016] EWCA Civ 162, which states that a practitioner has a right to be present at a hearing and a right to be legally represented but that those rights can be waived where a practitioner voluntarily absents themselves from a hearing and/or withdraws instructions from those representing them.

136. The Tribunal also had regard to the legal authority of *R v Jones* [2002] UKHL 5, which states that the following should be taken into account when determining whether to proceed in the absence of the practitioner:

- the nature and circumstances of the Respondent's/Appellant's absence and, in particular, whether the behaviour may be deliberate and voluntary and thus a waiver of the right to appear;
- whether an adjournment might result in the Respondent/Appellant attending the proceedings at a later date; the likely length of any such adjournment;
- whether the Respondent/Appellant, despite being absent, wished to be represented at the hearing or has waived that right;
- the extent to which any representative would be able to receive instructions from, and present the case on behalf of, the absent Respondent/Appellant;
- the extent of the disadvantage to the Respondent/Appellant in not being able to give evidence having regard to the nature of the case;
- the general public interest;

- and, in particular, the interest of any victims or witnesses that a hearing should take place within a reasonable time of the events to which it relates; the effect of delay on the memories of witnesses.

The Tribunal's Determination

Service

137. The Tribunal had regard to Rule 40(2) of the Rules which provides that a notice or document required to be served under the Rules may be served by ordinary post, or by electronic mail to an electronic mail address, that the practitioner had notified to the Registrar as an address for communications.

138. In light of the evidence showing the Notice of Allegation and Notice of Hearing being served by email to Dr Lewit, and his acknowledgement of those emails, the Tribunal was satisfied that Dr Lewit had been properly served with the Notice of Hearing in accordance with Rules 15 and 40 of the Rules.

Proceeding in Dr Lewit's Absence

139. In making its determination the Tribunal noted that the decision as to whether or not the hearing should proceed in Dr Lewit's absence was a matter for its discretion and that such discretion was to be exercised with care and caution.

140. The Tribunal noted that the letters sent to Dr Lewit informed him of the date and venue of the hearing, his right to attend it, and to be legally represented. He was also informed that the hearing could proceed in his absence if he did not attend. Dr Lewit had acknowledged all correspondence sent to him and had stated that he would not be attending the hearing. The Tribunal concluded, in light of the information before it, that Dr Lewit had voluntarily absented himself from this hearing.

141. The Tribunal considered whether an adjournment would result in Dr Lewit attending the hearing. Setting aside that there had been no application for an adjournment, there was no evidence before the Tribunal that an adjournment would result in Dr Lewit attending. The Tribunal formed the view that Dr Lewit had made it clear in his correspondence with the GMC and MPTS that he did not intend to participate in this hearing.

142. The Tribunal considered that the reason provided by Dr Lewit for not engaging legal representation, namely his lack of funds, did not justify an adjournment.

143. The Tribunal also considered whether any decision to proceed in Dr Lewit's absence may result in disadvantage or prejudice to him taking account of the fact that it may not necessarily have all of the information which Dr Lewit would wish to present. However, the Tribunal considered that any such disadvantage could be mitigated by the fact that that Dr Lewit had submitted a statement setting out his position. The Tribunal also noted that it could test the evidence in the absence of Dr Lewit.

144. The Tribunal noted that part of its role was to ensure a fair hearing notwithstanding Dr Lewit's absence. The Tribunal determined that the Notice of Hearing was served in accordance with the Rules and, therefore, Dr Lewit is aware of today's hearing. The Tribunal also noted that no application has been made to adjourn and there was no evidence to indicate that an adjournment would result in his attendance. The Tribunal also noted that the stress of anticipated proceedings might diminish if the hearing were to go ahead. The Tribunal balanced these facts against the statutory overarching objective, the fair, economic, expeditious and efficient disposal of the proceedings and the public interest.

145. Having considered each of the relevant factors, the Tribunal determined that it is fair, just, and in both the public and Dr Lewit's interest to proceed with the hearing in his absence.

SCHEDULE 1

No	Day	Date of Shift	Start Time	Finish Time
1	Mon	12.08.2019	09:00	17:00
2	Fri	20.09.2019	09:00	19:00
3	Mon	23.09.2019	11:00	24:00
4	Tue	24.09.2019	00:00	08:00
5	Wed	25.09.2019	11:00	24:00
6	Thu	26.09.2019	00:00	08:00
7	Wed	02.10.2019	09:00	19:00
8	Tue	29.10.2019	11:00	24:00
9	Wed	30.10.2019	00:00	15:00
10	Tue	17.12.2019	08:30	17:00
11	Wed	18.12.2019	08:30	17:00
12	Mon	30.12.2019	08:00	17:00
13	Tue	31.12.2019	08:00	17:00
14	Tue	07.01.2020	08:00	17:00
15	Wed	08.01.2020	08:00	17:00
16	Tue	14.01.2020	08:00	17:00
17	Fri	17.01.2020	08:00	17:00
18	Tue	21.01.2020	08:00	17:00
19	Thu	23.01.2020	08:00	17:00
20	Tue	04.02.2020	08:00	17:00
21	Wed	05.02.2020	08:00	17:00
22	Thu	06.02.2020	08:00	17:00
23	Mon	17.02.2020	08:00	17:00
24	Tue	18.02.2020	08:00	17:00
25	Wed	19.02.2020	08:00	17:00

26	Mon	24.02.2020	08:00	17:00
27	Tue	25.02.2020	08:00	17:00
28	Wed	26.02.2020	08:00	17:00
29	Fri	28.02.2020	08:00	17:00
30	Sat	29.02.2020	08:00	17:00
31	Mon	16.03.2020	08:00	17:00
32	Thu	19.03.2020	08:00	17:00
33	Mon	23.03.2020	08:00	17:00
34	Wed	25.03.2020	08:00	17:00
35	Thu	26.03.2020	08:00	17:00
36	Wed	01.04.2020	08:00	17:00
37	Fri	03.04.2020	08:00	17:00
38	Mon	06.04.2020	08:00	17:00
39	Tue	07.04.2020	08:00	17:00
40	Thu	16.04.2020	08:00	13:30
41	Fri	17.04.2020	08:00	17:00
42	Wed	22.04.2020	08:00	17:00
43	Thu	23.04.2020	08:00	14:00
44	Tue	28.04.2020	08:00	17:00
45	Wed	29.04.2020	08:00	17:00
46	Mon	11.05.2020	08:00	17:00
47	Thu	14.05.2020	08:00	17:00
48	Fri	15.05.2020	08:00	17:00
49	Wed	20.05.2020	08:00	17:00
50	Thu	21.05.2020	08:00	17:00
51	Mon	01.06.2020	08:00	17:30
52	Wed	03.06.2020	08:00	17:30
53	Thu	04.06.2020	08:00	17:30

54	Mon	08.06.2020	08:00	17:30
55	Wed	10.06.2020	08:00	17:30
56	Tue	16.06.2020	08:00	17:30
57	Wed	17.06.2020	08:00	17:30
58	Mon	22.06.2020	08:00	17:30
59	Tue	23.06.2020	08:00	17:30
60	Mon	29.06.2020	08:00	17:30
61	Wed	01.07.2020	08:00	17:30
62	Thu	02.07.2020	08:00	17:30
63	Mon	06.07.2020	08:00	17:30
64	Tue	07.07.2020	08:00	17:30
65	Mon	13.07.2020	08:00	17:30
66	Tue	14.07.2020	08:00	17:30
67	Mon	19.10.2020	08:00	17:30
68	Tue	20.10.2020	08:00	17:30
69	Mon	02.11.2020	08:00	17:30
70	Tue	03.11.2020	08:00	17:30
71	Mon	09.11.2020	08:00	17:30
72	Tue	10.11.2020	08:00	17:30
73	Mon	16.11.2020	08:00	17:30
74	Tue	17.11.2020	08:00	17:30
75	Tue	24.11.2020	08:00	17:30
76	Mon	30.11.2020	08:00	17:30
77	Tue	01.12.2020	08.00	17:30
78	Mon	07.12.2020	08.00	17:00
79	Tue	08.12.2020	08.00	17:00
80	Mon	14.12.2020	08.00	17:30
81	Tue	15.12.2020	08.00	17:30

82	Mon	21.12.2020	08.00	17:30
83	Tue	22.12.2020	08.00	17:30
84	Mon	04.01.2021	08.00	17:30
85	Tue	05.01.2021	08.00	17:30
86	Mon	11.01.2021	08.00	17:30
87	Tue	12.01.2021	08.00	17:30
88	Mon	18.01.2021	08.00	17:30
89	Tue	19.01.2021	08.00	17:30
90	Mon	25.01.2021	08.00	17:30
91	Tue	26.01.2021	08.00	17:30
92	Mon	01.02.2021	08.00	17:30
93	Tue	02.02.2021	08.00	17:30
94	Mon	15.02.2021	08.00	17:30
95	Tue	16.02.2021	08.00	17:30
96	Mon	22.02.2021	08.00	17:30
97	Tue	23.02.2021	08.00	17:30
98	Mon	08.03.2021	08.00	17:30
99	Fri	19.03.2021	08.00	17:30
100	Mon	22.03.2021	08.00	17:30
101	Fri	26.03.2021	08.00	17:30
102	Tue	06.04.2021	08.00	17:30
103	Mon	12.04.2021	09.00	17:30
104	Tue	13.04.2021	09.00	17:30
105	Mon	19.04.2021	08.00	17:30
106	Tue	20.04.2021	08.00	17:30
107	Mon	26.04.2021	08.00	17:30
108	Tue	27.04.2021	08.00	17:30
109	Tue	04.05.2021	08.00	17:30

110	Mon	10.05.2021	08.00	17:30
111	Tue	11.05.2021	08.00	17:30

SCHEDULE 2

1	Mon	13.12.2021	08:00	17:00
2	Tue	14.12.2021	08:00	17:00
3	Tue	04.01.2022	08:00	17:00
4	Mon	10.01.2022	08:00	17:00
5	Tue	11.01.2022	08:00	17:00

SCHEDULE 3

1	Mon	17.01.2022	08:00	17:00
2	Tue	18.01.2022	08:00	17:00
3	Mon	24.01.2022	08:00	17:00
4	Tue	25.01.2022	08:00	17:00
5	Mon	31.01.2022	08:00	17:00
6	Tue	01.02.2022	08:00	17:00
7	Mon	07.02.2022	08:00	17:00
8	Tue	08.02.2022	08:00	17:00
9	Mon	14.02.2022	08:00	17:00
10	Tue	15.02.2022	08:00	17:00
11	Mon	21.02.2022	08:00	17:00
12	Tue	22.02.2022	08:00	17:00
13	Mon	28.02.2022	08:00	17:00