PUBLIC RECORD

Dates: 17/03/2025 - 20/03/2025

Doctor:	Dr Richard BOWLEY
GMC reference number:	4008923
Primary medical qualification:	MB ChB 1993 University of Bristol

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

Summary of outcome

Suspension, 7 months
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Ms Sharmistha Michaels
Lay Tribunal Member:	Ms Sirah Abraham
Registrant Tribunal Member:	Dr Becky McGee

Tribunal Clerk:	Miss Maria Khan

Attendance and Representation:

Doctor:	Not present, not represented
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 - 18/03/2025

Background

1. Dr Bowley was awarded his MBBS in 1993 from the University of Bristol. At the time of the events as set out below, Dr Bowley was practising as a locum GP at the Brent Area Medical Centre as well as doing locum shifts at the Cheddar Medical Centre.

2. The allegation that has led to Dr Bowley's hearing can be summarised as that, on 3 July 2023, whilst working as a locum GP at the Cheddar Medical Centre, Dr Bowley accessed and viewed the medical records of a patient, who was also a professional colleague, without permission and without legitimate justification.

3. Ms A was working as a XXX at Brent Area Medical Centre ('BAMC') and was a patient at the Cheddar Medical Practice at the time of the events. On 13 September 2023, Ms B, Practice Manager at the Cheddar Medical Centre, received a phone call from Ms A asking her to check if Dr Bowley had accessed her medical records. Ms A explained she was worried that Dr Bowley had accessed them without authorization, describing her concerns as a *"gut feeling"*. Ms A had discovered that Dr Bowley had worked at the Cheddar Medical Centre and given their strained professional relationship, suspected unauthorized access.

4. Ms B sought advice from the Local Medical Committee ('LMC') to make sure she was acting appropriately before she took any action. The LMC advised Ms B to request that Ms A send in a written request. On 23 September 2023, Ms A made a formal request in writing that her medical records be checked, and an investigation was carried out.

5. The audit of the EMIS system at the Cheddar Medical Centre confirmed that Dr Bowley accessed Ms A's medical records on 3 July 2023, at 16:39, during the first of his three locum shifts at the practice. Ms B concluded that the access was inappropriate and reported her concerns to NHS England on 13 October 2023.

6. Ms A was informed of these findings and expressed distress and a sense of violation, as the records contained sensitive personal information about her and her family. Dr Bowley was officially informed of the allegations on 16 October 2023 by Ms B, who advised him that she had reported the matter to both the Performance Advisory Group ('PAG'), and the Information Commissioner's Office ('ICO'). Ms B also advised Dr Bowley that he would not be

working at the Cheddar Medical Centre again. Dr Bowley's response, dated 31 October 2023, stated that he would self-refer to the GMC.

7. The case was reviewed by the PAG. It rejected Dr Bowley's explanation for accessing the records and identified the matter as a probity issue, deferring the case to the GMC's fitness to practise proceedings. As part of the PAG proceedings, Ms A submitted a formal statement detailing the significant emotional impact of the alleged misconduct. She asserted that her professional relationship with Dr Bowley was strained, which provided context for her concerns.

8. Further, the matter was referred as a data breach to the ICO by the Cheddar Medical Centre. While the ICO confirmed it did not need to take any further action, the investigation outcome recommended a formal referral to the GMC.

9. In November 2023, the GMC received a self-referral from Dr Bowley acknowledging that he had been accused of inappropriately accessing patient records.

The Outcome of Applications Made during the Facts Stage

10. The Tribunal granted the GMC's application, made pursuant to Rules 15, 40 and 31 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that notice had been properly served on Dr Bowley and that it would be appropriate to proceed with the hearing in his absence. The Tribunal's full decision on the application is included at Annex A.

The Allegation and the Doctor's Response

11. The Allegation made against Dr Bowley is as follows:

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

1. At all material times:

   a. [Ms A] was a professional colleague;
   To be determined

   b. you were not [Ms A]'s General Practitioner ('GP').
   To be determined

2. On 3 July 2023, whilst working as a locum GP at the Cheddar Medical Centre you:

   a. accessed the medical records of [Ms A];
   To be determined

b. viewed the medical records of [Ms A].

To be determined

3. In respect of your actions as set out in paragraph 2, you knew you did not have:

a. legitimate reason, and/or;
To be determined

b. permission from [Ms A]
To be determined

to access their medical records.

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

The Facts to be Determined

12. In light of no response from Dr Bowley to the Allegation made against him, the Tribunal is required to determine the Allegation in its entirety.

Witness Evidence

13. The Tribunal received evidence on behalf of the GMC from the following witnesses who gave oral evidence by video link:

- Ms A, who also provided a witness statement dated 25 October 2024;
- Ms B, Practice Manager at the Cheddar Medical Centre since April 2010. Ms B also provided a witness statement dated 17 October 2024.

14. Dr Bowley did not attend his hearing and did not provide any evidence in his defence.

Documentary Evidence

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

- Email exchange between Ms A and Ms B regarding audit trail of access to medical records, dated 20-23 September 2023;
- EMIS audit trail;
- Email exchange between Ms A and Ms B as follow up to meeting on 10 October 2023, dated 10-11 October 2023;
- Email from Ms B to NHS England detailing timeline of events, dated 13 October 2023;

- Email from Ms B to Dr Bowley regarding data breach being reported to the ICO, dated 31 October 2023;
- Email exchange between Ms A and Ms B regarding update on investigation, dated 16-31 October 2023;
- Ms A's statement to the Professional Standards Team of NHS England, dated 6 November 2023;
- Email from Ms B to colleagues at the Cheddar Medical Practice regarding outcome of ICO referral, dated 11 November 2023;
- Email exchange between Ms A and Ms B regarding PAG investigation, and outcome of ICO referral, dated 25-31 January 2024;
- Outcome letter from PAG to Dr Bowley, dated 25 January 2024;
- Ms B's timeline of events, dated 21 August 2024;
- Dr Bowley's self-referral to the GMC.

The Tribunal's Approach

16. 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 Bowley 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.

17. In *Re H* [1996] AC 563, Lord Nichols clarified that while serious allegations require stronger supporting evidence due to their inherent improbability, the standard of proof remains unchanged. The Tribunal must assess probabilities logically and cannot speculate; an allegation is either proved or not proved. Decisions must be based solely on the evidence presented, without speculation about missing evidence.

18. The Tribunal noted that when considering documentary and oral evidence, priority should be given to contemporary documents, while also assessing witness testimony in context. Witness credibility and consistency must be evaluated, considering factors like stress, memory limitations, and potential exaggeration. However, demeanour alone should not determine credibility (*Dutta v GMC* [2020] EWHC 1974).

The Tribunal's Analysis of the Evidence and Findings

19. 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.

Paragraph 1a: At all material times Ms A was a professional colleague

20. The Tribunal took into account the evidence of Ms A, who had been XXX. Ms A, in her written and oral evidence, stated that at the time of the events she and Dr Bowley were both working at BAMC. The Tribunal noted that prior to this, Ms A had been appointed by the XXX Medical Centre XXX. Although she had never worked with Dr Bowley at XXX, Ms A was aware he had been removed from the partnership.

21. The Tribunal considered that Ms A's oral evidence was consistent at all times with her previous accounts and took the view that she was a credible witness who made no attempts to exaggerate or embellish her evidence.

22. The Tribunal noted the fact that Ms A and Dr Bowley were both working at BAMC at all material times was not disputed.

23. Accordingly, the Tribunal found paragraph 1a of the Allegation to be proved.

Paragraph 1b: At all material times you were not Ms A's General Practitioner ('GP')

24. The Tribunal took into account Ms A's oral evidence, in which she confirmed on direct questioning that at no point had Dr Bowley ever been involved in her care as a patient. The Tribunal also had regard to Ms B's evidence that Dr Bowley's locum shift on 3 July 2023, during which Ms A's medical records were accessed, was the first time Dr Bowley had worked at the Cheddar Medical Centre.

25. Accordingly, the Tribunal found paragraph 1b of the Allegation to be proved.

Paragraphs 2a and 2b: On 3 July 2023, whilst working as a locum GP at the Cheddar Medical Centre you: a) accessed the medical records of Ms A; b) viewed the medical records of Ms A.

26. The Tribunal took into consideration the EMIS records extract which showed the details of the audit. The Tribunal also had regard to Ms B's written and oral evidence in which she stated that after Ms A formally requested an audit in writing, the EMIS audit was carried out and showed it had been accessed by Dr Bowley on 3 July 2023 at 16:39.

27. The Tribunal considered the credibility of Ms B and the cogency of the evidence she presented. The Tribunal took the view that her account remained consistent with her contemporaneous statements and communications with others regarding the data breach at the Cheddar Medical Centre.

28. The Tribunal noted that Ms B could not say exactly how long Dr Bowley had been viewing Ms A's medical records for. However, there had been a 20-25 minute window between patients during which he would have been able to access and view the records.

29. While there was no evidence put before the Tribunal in relation to how long Dr Bowley viewed Ms A's records, it could find no reason why Dr Bowley would access the Ms A's records other than to view them. In the absence of any explanation from Dr Bowley as to why he searched for, and then viewed, Ms A's medical records, the Tribunal drew the inference that Dr Bowley had gained access to Ms A's records in order to view them.

30. Accordingly, the Tribunal found paragraphs 2a and 2b of the Allegation to be proved.

Paragraphs 3a and 3b: In respect of your actions as set out in paragraph 2, you knew you did not have: a) legitimate reason, and/or; b) permission from Ms A to access their medical records

31. The Tribunal first took into account Ms A's evidence that Dr Bowley was not her doctor and at no point had he been given permission to view her records. The Tribunal noted that Dr Bowley accessed Ms A's records on the first of his locum shifts at the Cheddar Medical Centre. The Tribunal also had regard to Ms A's evidence, that it would not have been difficult for Dr Bowley to surmise that she was a patient at the Centre as she lived XXX with only a couple of medical practices.

32. The Tribunal next had regard to Ms B's written and oral evidence in which she confirmed that she had found no legitimate reason at all for Dr Bowley to have been looking at Ms A's records at the relevant time. There had been no appointment made by Ms A to be seen as a patient that day. Dr Bowley was the on-call doctor at the Cheddar Medical Centre on the afternoon of 3 July 2023. Ms B told the Tribunal that any letters from the hospital, or prescription requests for a patient, would go through the reception team who then enveloped these to the on-call doctor. There had been no communications of this kind relating to Ms A received by reception that day.

33. The Tribunal concluded that no legitimate reason for accessing Ms A's medical records had been identified. Ms A had confirmed her relationship with Dr Bowley was *"strained"* and stated she had not given permission to Dr Bowley to access her records.

34. Accordingly, the Tribunal found paragraphs 3a and 3b of the Allegation to be proved.

The Tribunal's Overall Determination on the Facts

35. The Tribunal has determined the facts as follows:

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

1. At all material times:

   a. [Ms A] was a professional colleague;
   Determined and found proved

   b. you were not [Ms A]'s General Practitioner ('GP').
   Determined and found proved

2. On 3 July 2023, whilst working as a locum GP at the Cheddar Medical Centre you:

   a. accessed the medical records of [Ms A];
   Determined and found proved

b. viewed the medical records of [Ms A].
Determined and found proved

3. In respect of your actions as set out in paragraph 2, you knew you did not have:

a. legitimate reason, and/or;
Determined and found proved

b. permission from [Ms A]
Determined and found proved

to access their medical records.

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

36. 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 Bowley's fitness to practise is impaired by reason of misconduct.

The Evidence

37. No further evidence was submitted for this stage of the hearing.

Submissions

38. On behalf of the GMC, Ms Khan submitted that Dr Bowley's fitness to practise is impaired by reason of his misconduct. She reminded the Tribunal that consideration of impairment by virtue of misconduct follows a two-stage process: first the Tribunal must decide whether there has been misconduct, and second, whether that misconduct is such as to impair fitness to practise.

39. Ms Khan highlighted to the Tribunal that the definition of *'misconduct'*, as defined in case law, must be serious professional misconduct, conduct which falls significantly below the standards expected of a medical practitioner. Ms Khan referred the Tribunal to the case of *Nandi v GMC* [2004] EWHC 2317 (Admin), in which it was emphasized that *'seriousness'* should be given due weight, and where in other cases, the court had said that misconduct may be described as conduct that fellow practitioners would find deplorable.

40. Ms Khan drew the Tribunal's attention to its findings at the Facts stage of these proceedings. Dr Bowley had accessed the medical records of a professional colleague on his

first day of employment at the Cheddar Medical Practice without a legitimate reason. Ms Khan submitted that given their strained relationship, such conduct amounted to deplorable conduct.

41. Ms Khan submitted that health data is sensitive personal data under the Data Protection Act 2018 due to its personal and confidential nature. Dr Bowley's conduct was intrusive and a grave violation of Ms A's privacy. The effects of Dr Bowley's actions had had a profound impact on Ms A, who had described feeling devastated and violated, describing the incident as *"an utter violation bordering on sexual assault."*

42. Ms Khan submitted that there could be no doubt that the facts found proved amounted to misconduct in all the circumstances of this case.

43. Addressing the matter of impairment, Ms Khan submitted that this was a complex question with no statutory definition. She 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,* with regard to commonly occurring features that are likely to be present when impairment is found:

> *'Do our findings of fact in respect of the doctor's misconduct, show that his/her fitness to practise is impaired in the sense that he/she:*
>
> *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 or is liable in the future to bring the medical profession into disrepute; and/or*
>
> *c. Has in the past breached or is liable to breach in the future 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.'*

44. Ms Khan submitted that limbs *a, b, and c* of *Grant* were engaged in this case. Ms Khan submitted that Ms A was a patient at the Cheddar Medical Centre and Dr Bowley's actions had caused her harm, making her feel violated in what she described as akin to a *"sexual assault".* Dr Bowley had acted in a way that put a patient, albeit not his own, at the risk of harm, thereby engaging limb *a*. Addressing limb *b*, Ms Khan submitted that the context in which Dr Bowley had accessed and viewed Ms A's medical records was significant. His actions were targeted, and he had misused his position of trust. Ms Khan submitted that it was likely that he had wanted to look at the records because of the strained relationship with Ms A and this was an intentional act motivated by malice, which made it particularly egregious and brought the profession into disrepute.

45. Additionally, Ms Khan submitted that Dr Bowley had breached key principles of *Good Medical Practice* ('GMP') which requires medical professionals to act with integrity, uphold professional boundaries, and justify public trust in the profession, thereby engaging limb *c* of *Grant.*

46. Ms Khan reminded the Tribunal that the purpose of fitness to practise proceedings was not to punish the doctor but to protect the public. She submitted that to form a view on Dr Bowley's fitness to practise today, the Tribunal must take into account the way he behaved in the past and that his misconduct was so egregious, his fitness to practise must be impaired.

47. Ms Khan referred the Tribunal to the case law of *Cohen v GMC* [2008] EWHC 581 (Admin) and submitted that remediation is a central consideration when determining whether a doctor's fitness to practise is impaired. Ms Khan submitted that while some misconduct may be easily remediable, misconduct such as dishonesty was not easy to remediate. Ms Khan set out that although Dr Bowley's actions did not constitute direct dishonesty, his misconduct was not easily remediable as it centred on acting without integrity, and acting with integrity may be difficult to learn.

48. Ms Khan submitted that a Tribunal must look at any actions taken to remedy deficiencies and assess a doctor's current skills, state of character and integrity and measure that against the high standards required of medical professionals. In this case, nothing had been put before the Tribunal to show that Dr Bowley's conduct could be remedied or had been remediated.

49. Ms Khan concluded by submitting that both stages of the test for impairment were met in this case. To protect patients, uphold professional standards, and maintain public confidence in the profession, the Tribunal should find Dr Bowley's fitness to practise impaired.

The Relevant Legal Principles

50. 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. In reaching its decision on impairment the Tribunal bore in mind that its primary responsibility is to the statutory overarching objective.

51. The Tribunal noted that while there is no statutory definition of the term *"impairment of fitness to practise,"* the case of *Grant* emphasises that the need to uphold proper professional standards and public confidence in the profession are key factors and a tribunal or committee may need to consider whether professional standards and public confidence would be undermined if a finding of impairment were not made in the particular circumstances.

52. The Tribunal had regard to GMP and the standards expected of all doctors, and the statutory overarching objective.

The Tribunal's Determination on Impairment

53. The Tribunal took into account all the evidence received during the facts stage of the hearing, both oral and documentary, as well as the submissions from Ms Khan on behalf of the GMC.

Misconduct

54. In determining whether Dr Bowley's fitness to practise is impaired by reason of misconduct in respect of paragraphs 1-3 of the Allegation, the Tribunal first considered whether the facts determined and found proved amounted to misconduct.

55. The Tribunal acknowledged that the accessing of Ms A's medical records had been an isolated incident. However the Tribunal took the view that Dr Bowley had clearly not accessed the records of Ms A in error. The Tribunal took into account the background of this case and considered that the strained relationship between Ms A and Dr Bowley provided some motivation for Dr Bowley's access of Ms A's records. Ms A, as demonstrated in her written and oral evidence, had been clearly upset by what had happened prior to the incident. She told the Tribunal, *"I would receive messages telling me I should look at* [XXX] *in relation to treating colleagues with respect and honesty, I was feeling gaslit by him, it was unpleasant … the undercurrent was one of making me feel like I was the problem and making me feel very uncomfortable".*

56. The Tribunal had found that Dr Bowley was not, and had never been, Ms A's doctor and had no legitimate reason for accessing her medical records. The Tribunal therefore formed the view that Dr Bowley's actions were deliberate, intentional and more likely than not motivated by malice towards Ms A due to their difficult professional relationship.

57. The Tribunal noted that the paragraphs of GMP referred to by the GMC were from GMP 2024 and not the version that would have been applicable at the time these concerns were raised. The Tribunal had regard to the GMP 2013 and had particular regard to paragraphs 20, 47, 48, 50, 65 of GMP:

> ***20*** *You must keep records that contain personal information about patients, colleagues or others securely, and in line with any data protection requirements.*
>
> ***47*** *You must treat patients as individuals and respect their dignity and privacy.*
>
> ***48*** *You must treat patients fairly and with respect …*
>
> ***50*** *You must treat information about patients as confidential. This includes after a patient has died.*

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

58. The Tribunal took into account that Dr Bowley had accessed Ms A's medical records on the first of his three shifts at the Cheddar Medical Centre. The Tribunal was of the view that he had abused his position of trust on that first day by accessing the medical records of a patient at the practice for whom he had no responsibility.

59. The Tribunal was content that Dr Bowley's actions were deliberate, not done in error, and amounted to misconduct. The relationship between the two was the reason behind him accessing Ms A's sensitive personal data. Dr Bowley's actions had breached paragraphs of GMP relating to confidentiality, respect and public trust in the medical profession, with no explanation from him as to why he had behaved in this way. The Tribunal was of the view that if members of the public knew that medical records were being accessed without permission or a legitimate reason, they would be shocked. Doctors are required to ensure the safe storage and handling of medical records and there is an expectation by members of the public that their sensitive data will be carefully controlled and secure and only accessed when absolutely necessary.

60. The Tribunal concluded that Dr Bowley's conduct fell far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious professional misconduct.

Impairment

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

62. The Tribunal took into account the factors as set out in *Grant*. The Tribunal took the view that it was evident that Dr Bowley's actions had caused Ms A psychological harm and distress. She had felt violated and had likened this access to her sensitive personal data as being akin to a sexual assault. Dr Bowley had targeted her and was more than likely looking at her medical records because of their strained relationship. The Tribunal did not speculate as to what he would have done with this information had he not been discovered. The Tribunal determined that Dr Bowley had not upheld high personal and professional standards of conduct. He had behaved in a way that was not honest and trustworthy, clearly allowing his personal interests to affect his professional actions, thus acting outside of integrity and breaching fundamental tenets of the medical profession. Dr Bowley should have known, as an experienced doctor, that he should not access someone's medical records without any legitimate purpose.

63. The Tribunal concluded that limbs *a*, *b* and *c* of *Grant* were engaged in this case.

64. The Tribunal had no evidence at all from Dr Bowley that might demonstrate any insight into his actions or any steps he may have taken to remediate his behaviour for example through training in Data Protection, GDPR or patient confidentiality and professional boundaries. There was no evidence that he had put any measures in place to stop this kind of misconduct happening again, nor was there any evidence of remorse or regret.

65. The Tribunal also took into account that there had been no meaningful engagement on Dr Bowley's part with either the PAG or the GMC, albeit he had submitted a self-referral to the GMC.

66. The Tribunal was unable to assess Dr Bowley's perspective on the matter or his understanding of the significant impact of his actions on Ms A. Therefore, the Tribunal could not be reassured that there was no risk of repetition if Dr Bowley found himself in a similar situation in the future.

67. In considering whether Dr Bowley's fitness to practise is currently impaired, the Tribunal balanced its assessment of his insight, remediation and the risk of repetition against the statutory overarching objective: 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 the profession.

68. While the Tribunal accepted that Ms A had not been Dr Bowley's patient, Dr Bowley had accessed her medical records in her status as a patient of the Cheddar Medical Centre and his actions had caused her great distress. In terms of the second limb, Dr Bowley's actions had significant potential to undermine public confidence in the medical profession. If members of the public were to learn of a medical practitioner accessing the sensitive personal data of patients without legitimate reason, the seriousness of this behaviour would significantly undermine public confidence in the medical profession as a whole.

69. The Tribunal found that Dr Bowley's actions put patient safety at risk, undermined public trust and confidence in the medical profession and brought the medical profession into disrepute. His actions breached fundamental tenets of the profession and have constituted a significant departure of the standards required of doctors, as set out in GMP. Accordingly, the Tribunal determined that all three limbs of the overarching objective were engaged in this case.

70. The Tribunal has therefore determined that Dr Bowley's fitness to practise is currently impaired by reason of misconduct.

Determination on Sanction - 20/03/2025

71. Having determined that Dr Bowley'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

72. The Tribunal has taken into account the evidence received during the earlier stages of the hearing where relevant in reaching a decision on sanction. No further evidence was submitted at this stage.

Submissions

73. On behalf of the GMC, Ms Khan submitted that in this case a sanction of suspension and nothing less would meet the statutory overarching objective.

74. Ms Khan referred the Tribunal to its findings at the impairment stage. Dr Bowley had been found to have breached paragraphs 20, 47, 48, 50, and 65 of GMP and he had failed to uphold high personal and professional standards of conduct, particularly in relation to data protection requirements. By reason of his misconduct, Dr Bowley failed to keep Ms A's medical records secure and failed to respect her dignity and privacy.

75. Ms Khan submitted that Dr Bowley had allowed his personal interests to influence his professional actions. Overall, he failed to act with integrity. Ms Khan reminded the Tribunal that the reputation of the profession as a whole is more important than the interests of any individual doctor.

76. Ms Khan then addressed the Tribunal on the aggravating factors of this case. She submitted that in accordance with the Sanctions Guidance (February 2024)('the SG') the Tribunal must take more serious action as a result of these features being present. The first aggravating feature was that Dr Bowley had failed to work collaboratively with colleagues. His unauthorised access to the medical records of a colleague demonstrated this failure. Given the context of the strained relationship between Dr Bowley and Ms A, the relationship would deteriorate further and represented a further failure to work collaboratively with colleagues.

77. Ms Khan submitted that Dr Bowley had neither accepted responsibility nor attempted to make any reparations. There had also been no apologies or expressions of remorse.

78. Ms Khan submitted that a further aggravating feature was Dr Bowley's abuse of his professional position. He had been given access to Ms A's medical records due to his role as a locum GP within the practice, and abused that position for his own personal interest. The fact that Dr Bowley made a deliberate decision to access and view Ms A's records, likely with malicious intent, was also an aggravating feature. The nature of the data accessed was

sensitive and would have made reference to health conditions not only of Ms A but also of her family members.

79. Ms Khan drew the Tribunal's attention to the PAG investigation outcome letter. It stated that the PAG had not accepted Dr Bowley's response, and found that he had accessed the records. Ms Khan submitted that this suggested in those proceedings Dr Bowley had not admitted what he had done.

80. Ms Khan reminded the Tribunal of its previous findings that Ms A had been caused psychological harm and distress by Dr Bowley's actions. Ms Khan submitted that Dr Bowley's conduct was a breach of a fundamental tenet of the medical profession, to act with integrity. Although his conduct had arisen in a professional setting, it had been driven by personal matters and Ms Khan referred the Tribunal to the paragraphs of the SG that address issues relating to probity, being honest and trustworthy, and acting with integrity.

81. Ms Khan submitted there were no mitigating features in this case.

82. Addressing the Tribunal on the various sanction options available to it, Ms Khan submitted that taking no action would only be appropriate in exceptional circumstances, which were not present in this case. There was nothing unusual, special or uncommon, and taking no action would not be proportionate, appropriate or in the public interest.

83. Ms Khan referred the Tribunal to the paragraphs of the SG that address when imposing a period of conditions may be appropriate. She submitted that these highlighted that the purpose of conditions is to help with health matters or deal with deficiencies in practice or knowledge while protecting the public. A lack of integrity could not be remediated by conditions, nor was this a case that justified conditions.

84. Ms Khan submitted that the nature of the misconduct in this case justified suspension to uphold the overarching objective. She drew the Tribunal's attention to the relevant paragraphs of the SG and submitted that while suspension may have a punitive effect, it serves as a necessary deterrent, sending out a signal to the public, the profession and the doctor as to what is regarded as behaviour unbefitting a registered doctor.

85. Ms Khan submitted that this was not a case where Dr Bowley's actions were fundamentally incompatible with continued registration as a doctor; rather, it reflected a single incident of bad behaviour that fell squarely within the territory of suspension. The misconduct was not so difficult to remediate that complete removal from the medical register was in the public interest, and erasure would be disproportionate. However, the departure from the principles of GMP was serious enough that a sanction lower than suspension would be insufficient to protect the public.

86. In conclusion, Ms Khan submitted that a period of suspension would properly mark the seriousness of the misconduct and uphold the overarching objective. It would send a clear message to the public, the profession and the doctor that illicit access to, and viewing,

an individual's health records for personal reasons is a failure to act with integrity. Additionally, given Dr Bowley's lack of engagement with these proceedings, a review hearing would be appropriate to assess whether he had taken steps to remediate his misconduct before any return to practice.

The Relevant Legal Principles

87. The Tribunal should have regard, throughout its decision making process, to the overarching objective and the SG.

88. The Tribunal must bear in mind that the purpose of imposing a sanction is to protect the public and the wider public interest and its purpose is not to punish, although it may have a punitive effect. The Tribunal should consider proportionality, weighing the public interest against the interests of Dr Bowley but bear in mind that the reputation of the profession as a whole is more important than the interests of any individual doctor (*Bolton v Law Society* [1994] 1 WLR 512).

89. In reaching its decision, the Tribunal will consider the least restrictive sanction first before moving on to consider the other available sanctions in ascending order of severity.

90. The Tribunal should take into account any aggravating and mitigating features and address them within the context of the determination.

91. If the Tribunal decides to depart from the steer of the SG, it should give clear and case-specific reasons for doing so.

92. Misconduct involving personal integrity that impacts on the reputation of the profession is harder to remediate than poor clinical performance (*Yeong v GMC* [2009] EWHC 1923, [50], *GMC v Patel* [2018] EWHC 171 (Admin) at [64])

The Tribunal's Determination on Sanction

93. Before considering what action, if any, to take in respect of Dr Bowley's registration, the Tribunal considered the aggravating and mitigating factors in this case.

Aggravating factors

94. The Tribunal identified the following aggravating factors:

- Abuse of professional position. Dr Bowley accessed Ms A's medical records and could only do that as he was a doctor at her practice;
- The impact of Dr Bowley's actions on Ms A, particularly the psychological harm;
- The nature of the data that related not just to Ms A but also her family;
- Lack of insight;
- Lack of remediation;

- No evidence that Dr Bowley accepted his wrongdoing;
- No remorse, apologies or expressions of regret;
- The backdrop to the events i.e. the strained relationship between Dr Bowley and Ms A;
- Dr Bowley used work time to focus on personal matters.

Mitigating factors

95. The only mitigating factor the Tribunal was able to identify was that there was no evidence of repetition of the misconduct.

No action

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

97. The Tribunal could find no evidence of exceptional circumstances. Given the seriousness of its findings, the Tribunal determined that taking no action would not meet the requirements of the overarching objective.

Conditions

98. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Bowley's registration. It took account of paragraphs 81, 82 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*** *where there is evidence of shortcomings in a specific area or areas of the doctor's practice*
>
> ***d*** *where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.*
>
> ***82*** *Conditions are likely to be workable where:*
>
> ***a*** *the doctor has insight*
>
> ***b*** *a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*

c the tribunal is satisfied the doctor will comply with them

d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.

85 Conditions should be appropriate, proportionate, workable and measurable

99. The Tribunal acknowledged that Dr Bowley's misconduct was remediable. However, it had regard to the fact that Dr Bowley had not engaged with these proceedings since August 2024 and could not be satisfied that Dr Bowley would comply with conditions. It also took into consideration its finding that Dr Bowley had not demonstrated any insight into his misconduct.

100. The Tribunal concluded that no measurable or workable conditions could be formulated in this case. Further, the Tribunal determined that a period of conditional registration would be insufficient to mark the seriousness of the misconduct and satisfy the statutory overarching objective, public interest or uphold/maintain public confidence in the profession.

Suspension

101. When considering whether a period of suspension would be the appropriate and proportionate sanction in this case, the Tribunal had regard to paragraphs 91, 92 and 97a and f of the SG:

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).

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

a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete

removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.

b to e *(not relevant)*

f *No evidence of repetition of similar behaviour since incident.*

g *(not relevant)*

102. The Tribunal took into account that Dr Bowley's actions had breached fundamental tenets of the medical profession to act with integrity and to justify patient trust in the profession. It had found that the public would be shocked to learn that a doctor had accessed patient medical records without legitimate reason. The Tribunal considered that even though this had been an isolated incident, it was serious given the context of the strained relationship.

103. In making its determination, the Tribunal carefully considered the SG, relevant case law guidance, and submissions from Ms Khan, along with the aggravating and mitigating factors. It concluded that while Dr Bowley's conduct was serious, it did not reach the threshold of being fundamentally incompatible with continued registration. The Tribunal determined that a sanction of suspension was appropriate and proportionate, balancing Dr Bowley's interests with the necessity to uphold professional standards, maintain public confidence in the profession, and convey a clear message that such conduct is unacceptable for a registered doctor.

Length of suspension

104. The Tribunal took into account that Dr Bowley had last engaged in these fitness to practise proceedings on 12 August 2024. It was mindful that Dr Bowley would need time to reflect on the outcome of this hearing and also to reflect on how his behaviour had impacted Ms A. The Tribunal formed the view that Dr Bowley had a lot of work to do in respect of insight and remediation to demonstrate to a review Tribunal that his fitness to practise was no longer impaired.

105. The Tribunal concluded that a period of suspension of seven months would allow Dr Bowley adequate time to reflect on his actions and prepare for a review.

106. Accordingly, the Tribunal determined to impose a period of suspension of seven months.

Review

107. The Tribunal also determined to direct a review of Dr Bowley's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify

that at the review hearing, the onus will be on Dr Bowley to demonstrate how he has developed insight and remediated.

108. The Tribunal was of the view that it may assist the reviewing Tribunal if Dr Bowley provides specific and focused evidence of reflection and remediation. Further, that this should address the impact of accessing sensitive personal data without consent or legitimate reason, on the individual, the public and colleagues, and what steps he would take in the future to prevent a similar situation arising. Dr Bowley also may wish to provide any other evidence he believes to be relevant.

Determination on Immediate Order - 20/03/2025

109. Having determined to impose a period of suspension of seven months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Bowley's registration should be subject to an immediate order.

Submissions

110. On behalf of the GMC, Ms Khan took the Tribunal to paragraph 173 of the SG, which highlights the circumstances in which an immediate order is particularly appropriate. She submitted those aspects were relative to the circumstances in this case and an immediate order was required to protect public confidence in the profession.

111. Ms Khan reminded the Tribunal of its findings relating to Dr Bowley's lack of engagement with these proceedings, the aggravating features of this case and the need to convey a clear message that such conduct is unacceptable for a doctor. She submitted that taking all of this into account, it would be contrary to the public interest to not impose an immediate order of suspension.

112. Ms Khan submitted that Dr Bowley had not started to do the work necessary to reach remediation. In these circumstances where he had failed to engage since August 2024, it would be contrary to the public interest as a delay to the substantive order taking effect may undermine the serious action imposed by this Tribunal.

113. Ms Khan submitted that it was unclear if Dr Bowley was working and no evidence had been submitted that he had been permitted a period of return to work or continuation of any employment.

114. Ms Khan concluded by submitting patient safety was also at risk if there was a delay in suspending Dr Bowley's registration based on his lack of insight and remediation.

The Tribunal's Determination

115. In reaching its decision, the Tribunal exercised its own discretion. It took into account the submissions from Ms Khan as well as the facts of this case and its findings at the previous stages of this hearing. It had regard to the following paragraphs of the SG:

> *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. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.*
>
> *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.*
>
> *177 … Where the tribunal has directed suspension or erasure as the substantive outcome of the case, it may impose an immediate order to suspend registration.*
>
> *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.*

116. The Tribunal considered that an immediate order was necessary in light of its findings. The Tribunal considered that a member of the public would be shocked if they were to learn that Dr Bowley was working unrestricted during the appeal period, given its findings in relation to lack of remediation and insight, and the lack of any meaningful engagement with these proceedings. This, coupled with the uncertainty of his current work status and whether he is working in line with GMP, led the Tribunal to conclude that an immediate order of suspension was necessary. The Tribunal determined, therefore, to impose an immediate order on both public protection and public interest grounds.

117. This means that Dr Bowley'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.

118. There is no interim order to revoke.

119. That concludes this case.

ANNEX A – Service and proceeding in absence – 18/03/2025

120. Dr Bowley was neither present nor represented at the hearing. The Tribunal therefore considered whether to continue the hearing in his absence.

Submissions

121. The Tribunal was provided with a copy of a Service bundle from the GMC. This included screenshots of the contact information held for Dr Bowley by the GMC, namely his registered postal address and his email address. Ms Anam Khan, on behalf of the GMC, took the Tribunal through the bundle and submitted that notification of the hearing had been served properly upon Dr Bowley. There had been good service, with all reasonable efforts made to serve notice. Ms Khan highlighted that the GMC had attempted to serve Dr Bowley via email and then, after failing to receive acknowledgment, by post to Dr Bowley's registered address. The MPTS had attempted to serve notice via email twice, and then post.

122. Ms Khan invited the Tribunal to proceed with the hearing in Dr Bowley's absence. She drew the Tribunal's attention to Rule 31 of the General Medical Council ('GMC') Fitness to Practise Rules 2004 ('the Rules'), which states:

> ***31*** *Where the practitioner is neither present nor represented at a hearing, the Committee or Tribunal may nevertheless proceed to consider and determine the allegation if they are satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with these Rules.*

123. Ms Khan submitted there had been no engagement from Dr Bowley, despite the efforts made by both GMC and MPTS to make sure notice was properly effected. It could be construed on the evidence provided that he had received notice and knew that the hearing was to commence at 09.30 on 17 March 2025. Ms Khan further submitted that it seemed like Dr Bowley had voluntarily absented himself from these proceedings. He had not applied for an adjournment, and granting an adjournment would not necessarily guarantee Dr Bowley's attendance in the future.

124. Ms Khan submitted that in the circumstances, it was in the public interest to deal with the matter expeditiously.

The Relevant Legal Principles

125. The Legally Qualified Chair provided legal guidance on the relevant rules and case law regarding proceeding with a hearing in the absence the doctor.

126. The Tribunal also bore in mind had the case of *General Medical Council v Adeogba/Visvardis* [2016] EWCA Civ 163. It had regard to all the circumstances including, but not limited to the following:

- The public interest that a hearing should take place within a reasonable time;
- The nature and circumstances of the doctor's behaviour in absenting himself, in particular, whether the behaviour was voluntary and therefore waived the right to be present;
- Whether an adjournment would result in the doctor being present;
- Inconvenience to any witnesses due to attend the hearing;
- The extent of any disadvantage to the doctor in not being able to present his account of events.

The Tribunal's Decision

Service

127. The Tribunal first considered whether the relevant documents had been served in accordance with Rules 15 and 40 and paragraph 8 of Schedule 4 to the Medical Act 1983.

128. The Tribunal noted that the GMC sent the Notice of Allegation letter to Dr Bowley's registered address via Special Delivery on 3 February 2025, and this had been signed for by someone in the name of *'BOWLEY'* on 4 February 2025. This letter included the date and time this hearing was to take place. The Tribunal also had regard to an email sent from the GMC to Dr Bowley's registered email address on 3 February 2025, attaching the Notice of Allegation, the Rule 34(9) letter and draft hearing bundle index. A delivery receipt dated 4 February 2025 was included in the proof of service bundle, however there was no read receipt.

129. The Tribunal also noted that on 4 February 2025 the MPTS sent its Notice of Hearing to Dr Bowley via email to his registered email address, with a follow-up email being sent on 5 February 2025. The Tribunal further noted that the MPTS had also sent the Notice of Hearing to Dr Bowley's registered address via Special Delivery on 6 February 2025 and that this had been signed for by someone in the name of *'RICHARS'*[sic] on 7 February 2025.

130. The Tribunal found that all reasonable efforts had been made to serve Dr Bowley with notice of the hearing scheduled for today. Accordingly, the Tribunal was satisfied that the GMC Notice of Allegation and the MPTS Notice of Hearing had been properly served in accordance with Rules 15 and 40 of the Rules and paragraph 8 of Schedule 4 to the Medical Act 1983.

Proceeding in absence

131. The Tribunal then went on to consider whether it would be appropriate to proceed with this hearing in Dr Bowley's absence pursuant to Rule 31 of the Rules.

132. The Tribunal took into account that Dr Bowley had not engaged with the GMC since August 2024 and that he had not requested an adjournment. The Tribunal found no evidence to suggest that an adjournment would facilitate Dr Bowley's engagement or secure his

attendance at a later date. The Tribunal took the view that Dr Bowley had voluntarily absented himself and bore in mind that the events as set out in the Allegation go back to 2023. It also took into consideration that two witnesses were scheduled to give evidence at this hearing and any inconvenience that would be caused to them if this hearing were to be adjourned.

133. The Tribunal concluded that it would be both fair and in the public interest for this hearing to proceed without further delay. The Tribunal was satisfied that it could proceed without any significant risk of injustice to Dr Bowley. It therefore exercised its discretion to proceed in Dr Bowley's absence in accordance with Rule 31 of the Rules.