PUBLIC RECORD

Dates: 04/08/2025 - 08/08/2025

Doctor:	Dr John HENDERSON
GMC reference number:	6157429
Primary medical qualification:	MB ChB 2007 University of Aberdeen

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

Summary of outcome

Suspension, 12 months
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mrs Emma Boothroyd
Lay Tribunal Member:	Ms Jodie Kembery
Registrant Tribunal Member:	Dr Joanne Topping

Tribunal Clerk:	Mr Rowan Barrett (04/08/2025 – 07/08/2025) Mrs Jennifer Ireland (08/08/2025)

Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Mr Anthony Haycroft, Counsel, instructed by MDDUS
GMC Representative:	Mr Andrew Molloy, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 06/08/2025

1. At the outset of the proceedings, Mr Anthony Haycroft, Counsel, on behalf of Dr Henderson made an application under Rules 41XXX of the Fitness to Practise Rules 2004 ('the Rules') that matters relating to XXX be heard in private session.

2. The application set out that Dr Henderson did not wish for matters relating to XXX to be heard in private, as he considered these to be intrinsically linked to his conviction and that they would be appropriately dealt with in public session.

3. The Tribunal determined to grant Dr Henderson's application on the basis that the particular circumstances of this case outweigh the public interest in hearing these contextual matters in public.

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

Background

5. Dr Henderson qualified in 2007. Prior to the events which are the subject of the hearing Dr Henderson worked as a locum and out of hours GP. At the time of the events Dr Henderson was practising as an out of hours GP at NHS Lanarkshire.

6. In summary, the allegation that has led to this hearing is that Dr Henderson was convicted on 23 January 2024 of having written fraudulent prescriptions in his own name and

the names of patients, some of whom were deceased, on several occasions between July 2021 and February 2022.

The Allegation and the Doctor's Response

7. The Allegation made against Dr Henderson is as follows:

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

1. On 23 January 2024 at Hamilton Sheriff Court you were convicted of:

    a. having formed a fraudulent scheme to obtain prescription medication by writing prescriptions for medication in the name of yourself or patients, including then deceased patients, in pursuance of said scheme, you did on various occasions occurring between 25 July 2021 to 21 February 2022, at various pharmacies and elsewhere, either present said prescriptions to pharmacies or instruct other NHS staff to present them to pharmacies on your behalf and to return said medication to you and did thus obtain such medication by fraud. Admitted and found proved

2. On 14 June 2024 you were sentenced to:

    a. pay compensation in the sum of £883.02; Admitted and found proved

    b. a community payback order with a supervision period of 9 months; Admitted and found proved

    c. an unpaid work/activities period of 100 hours to be completed within 12 months. Admitted and found proved

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

The Admitted Facts

8. At the outset of these proceedings, through his counsel, Mr Haycroft, Dr Henderson made admissions to all paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise)

Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced the Allegation as admitted and found proved in its entirety.

Determination on Impairment

9. In light of Dr Henderson's response to the Allegation made against him, the Tribunal proceeded to determine whether Dr Henderson's fitness to practise is currently impaired by reason of his conviction.

The Evidence

10. Dr Henderson provided signed witness statements and gave oral evidence at the hearing.

11. The Tribunal has taken into account all the evidence received during the facts and impairment stages of the hearing, both oral and documentary. This evidence included but was not limited to:

- Certificate of Conviction dated 28 June 2024
- Summary of evidence from the Crown Office and Procurator Fiscal Service.

12. The Tribunal also had regard to evidence provided on behalf of Dr Henderson, both oral and documentary. This evidence included but was not limited to:

- A signed witness statement, dated 9 July 2025 and oral evidence of Dr A, given on 5 August 2025
- Dr Henderson's witness statements, dated 1 July 2025 and 23 July 2025
- Positive testimonials from professional colleagues
- Certificates of CPD, including CPP relating to probity, professionalism, stress and burnout and appropriate prescribing
- Certificates of CPD relating to general practice and keeping knowledge and skills up to date
- Dr Henderson's written reflections on learning from undertaking CPD.

Submissions

On behalf of the GMC

13. Mr Andrew Molloy, Counsel, on behalf of the GMC, submitted that the appropriate finding in this case was that Dr Henderson's fitness to practise is currently impaired.

14. Mr Molloy referred the Tribunal to the case of *Meadow v General Medical Council [2007] 1 All ER 1, EWCA (Civil Division)*, which sets out that conduct resulting in impairment of fitness to practise must be linked to the practice of medicine or must be conduct which otherwise brings the medical profession into disrepute and that it must be serious. Mr Molloy submitted that this is a case in which the doctor's offending behaviour was serious and directly related to the practice of medicine in issuing fraudulent prescriptions.

15. Referring to *Nandi v General Medical Council [2004] EWHC (Admin),* Mr Molloy submitted that Dr Henderson's conviction would no doubt be regarded as deplorable by fellow medical practitioners.

16. In respect of the impact on patient safety, Mr Molloy submitted that Dr Henderson's actions presented an unwarranted risk to patients and the lack of actual harm to patients may have been more due to luck than to Dr Henderson's judgement. He submitted that a well-informed member of the public would find Dr Henderson's actions deeply concerning. He told the Tribunal that Dr Henderson acknowledges that his actions amount to a serious betrayal of the trust the public has in the medical profession. Mr Molloy submitted that Dr Henderson's conduct amounts to a significant departure from fundamental tenets of the medical profession, which he said had also been acknowledged by Dr Henderson.

17. Mr Molloy submitted that, when considering whether Dr Henderson's actions were remediable, had been remedied and whether they were highly unlikely to be repeated, the Tribunal should consider the extent of Dr Henderson's insight. He told the Tribunal that Dr Henderson has had three criminal convictions investigated by the GMC, and although this latest conviction was dissimilar in nature, it arguably represented an escalation in seriousness. Mr Molloy submitted that Dr Henderson had failed to learn from his earlier convictions and GMC investigations.

18. Mr Molloy further submitted that Dr Henderson has demonstrated the capacity to commit criminal offences despite annual conversations and declarations in his appraisals relating to his professionalism and probity.

19. Mr Molloy submitted that Dr Henderson has not worked as a doctor for more than three years and has not been subject to the professional stressors which he says form part of the background to his conviction. He submitted that this increases the risk of his reoffending.

On behalf of Dr Henderson

20. On behalf of Dr Henderson, Mr Anthony Haycroft, Counsel, submitted that this was a case of impairment on public interest grounds alone and that there was no ongoing public protection issue.

21. Mr Haycroft submitted that Dr Henderson has thoroughly reflected on his actions such that he has the insight to know what he did was wrong and that there is little risk of repetition. Mr Haycroft submitted that the GMC's assertion that Dr Henderson's actions carried an 'unwarranted risk' to patients does not amount to current impairment in terms of public protection.

22. Mr Haycroft conceded, however, that there is impairment of Dr Henderson's fitness to practise on public interest grounds. He submitted that, despite Dr Henderson's insight, the public interest demands that convictions for dishonesty must be marked by an appropriate sanction.

23. Mr Haycroft referred to Dr Henderson's professionalism and skill as a doctor, referring to the evidence of Dr A and several positive testimonials. He also outlined the extensive CPD undertaken by Dr Henderson and the reflections detailing the development of his insight, as well as the evidence of insight given in oral evidence.

24. In respect of the GMC's submission that Dr Henderson has failed to learn from his earlier convictions and prior GMC engagement, Mr Haycroft submitted that this assertion is correct up and until the current conviction, however Dr Henderson has learned from these experiences in the interim period and has demonstrated current insight.

25. Mr Haycroft submitted that Dr Henderson has given a lot of thought to how he would return to work safely if afforded the chance, and referred the Tribunal to Dr Henderson's reflections which highlight his support from family, peer support, XXX as well as the potential for a mentor/supervisor at work. He submitted that repetition of similar conduct is unlikely by reason of Dr Henderson's insight and the fact he has remained under stress of other kinds, namely XXX, being unable to support his family as previously and needing to take whatever

work he can whilst participating in these proceedings, which have not stopped him engaging fully in remediation work.

Legal Advice

26. The Legally Qualified Chair (LQC) gave advice to the Tribunal about the approach it should take. The Tribunal must now consider if, by reason of his conviction, Dr Henderson's fitness to practise is currently impaired.

27. The Tribunal was reminded that there is no burden or standard of proof to adopt at this stage and that decision as to impairment is a matter for its judgement alone. Whilst there is no statutory definition of impairment, the LQC advised the Tribunal that it is assisted by the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High Court in *CHRE v NMC & Grant (2011) EWHC 927 (Admin.)* Dame Smith sets out some features that are likely to be present when impairment is found. These are where the doctor has in the past or is liable in the future to:

a. act so as to put a patient or patients at unwarranted risk of harm.

b. bring the medical profession into disrepute.

c. breach one of the fundamental tenets of the medical profession; and/or

d. Have acted dishonestly and or is liable to do so in the future.'

28. The Tribunal was advised that it must determine whether Dr Henderson's fitness to practise is impaired today, taking into account the past actions which led to the conviction and his conduct at the time of the events, and any relevant factors since then. It should consider whether the matters are remediable, have been remedied and whether there is any likelihood of repetition. To assist it in this decision, the Tribunal must determine where Dr Henderson has demonstrated insight, and if so to what extent.

The Tribunal's Determination on Impairment

29. In reaching its determination on impairment, the Tribunal reminded itself firstly of the criminal offences that resulted in Dr Henderson's conviction at Hamilton Sherrif Court on 28 July 2024. Dr Henderson admitted the offences, which took place on multiple occasions between July 2021 and February 2022. He was subsequently sentenced by the court to a

Community Payback Order for 9 months, involving 100 hours of unpaid work and was also required to pay compensation.

30. The Tribunal considered the oral submissions from both counsel at this impairment stage, along with the oral evidence that Dr Henderson gave and the evidence of Dr A. It also read and took into account the bundles of evidence provided by both the GMC and Dr Henderson.

31. The Tribunal was mindful of Dr Henderson's explanation of the difficult personal circumstances he was experiencing at the time of the events, including XXX, as well as the stressors associated with working as a doctor during the pandemic. It had also regard to Dr Henderson's evidence in respect of XXX. The Tribunal has borne in mind this contextual background to Dr Henderson's offending in its deliberations.

32. The Tribunal was satisfied that Dr Henderson's offences of fraudulently writing prescriptions for his own use in the names of patients represented serious dishonesty. The offending was planned, continued over a prolonged period of time and took place within the course of Dr Henderson's work as a doctor, representing a clear breach of the trust of his employer and his patients.

33. The Tribunal considered that Dr Henderson's actions were in breach of Good Medical Practice ('GMP') 2013 at paragraph 65 which states:

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

34. Having considered the circumstances of the conviction, the Tribunal determined that all limbs of the test set out by *Dame Smith* (above), were applicable in this case. While there is no evidence of actual harm to patients in this case, the Tribunal considered that Dr Henderson's actions presented a significant risk of harm to patients. The Tribunal considered that XXX admitted by Dr Henderson was significant. The Tribunal noted Dr Henderson's own evidence that XXX. In these circumstances, the Tribunal considered that the fact that there was no patient harm may have been simply a fortunate outcome. The Tribunal is further satisfied that Dr Henderson acted in such a way as to bring the medical profession into disrepute and by his dishonest actions has breached a fundamental tenet of the medical profession.

35. The Tribunal considered that the criminal offences which led to Dr Henderson's conviction, and underlying dishonesty, would be considered deplorable by Dr Henderson's fellow doctors. The Tribunal noted that the dishonesty was prolonged and repeated, on Dr Henderson's evidence on more than 40 occasions, and that he stopped only when he was discovered. The Tribunal also took into account that Dr Henderson abused his position as a doctor in order to carry out his offending, which could not have occurred without the ability to prescribe medication entrusted to medical professionals and determined that Dr Henderson's actions have undermined public confidence in the medical profession.

36. The Tribunal then went on to consider whether Dr Henderson's actions were remediable, whether they had been remediated, and whether there was any likelihood of repetition. It noted the case of *Nkomo* and accepted that dishonesty is difficult to remediate, because it goes to a person's character, rather than their clinical performance.

37. The Tribunal firstly considered the level of insight evidenced by Dr Henderson. It had regard to his written reflections and his oral evidence given to the Tribunal. The Tribunal considered that Dr Henderson has shown a good degree of insight into the impact of his offending and has demonstrated genuine remorse and regret for his actions. The Tribunal also noted the large number of targeted and relevant CPD courses Dr Henderson has undertaken and his written reflections on what he has learned from this. The Tribunal accepts that Dr Henderson has made efforts to develop his insight into his offending behaviour and the seriousness of his dishonesty.

38. The Tribunal is concerned, however, that Dr Henderson appears not to have been transparent with colleagues about the personal or professional stress he was experiencing at the time of the events or the impact of XXX on his ability to cope. It noted that Dr Henderson's appraisal documents from the time record that he was managing well with adequate work-life balance. The Tribunal noted that Dr Henderson has had action taken by the GMC on his registration twice in the past, both for driving related offences which Dr Henderson stated as being caused by XXX behaviour, which Dr Henderson attributed to a 'work hard, play hard' coping mechanism. The Tribunal considered that Dr Henderson has a history of maladaptive coping mechanisms and of concealing his need for support. Dr Henderson appears able and inclined to claim that he is coping well even when he is not and therefore may not benefit from mechanisms designed to identify when he is in need of support. The Tribunal considered that there remains a risk of Dr Henderson repeating this maladaptive coping behaviour, which increases the risk of repetition of similar poor decision making occurring in future.

39. Dr Henderson has outlined the coping strategies he currently uses to manage stress and cope with XXX, which include meditation and exercise. However, the Tribunal was concerned that there is no evidence of Dr Henderson using these coping mechanisms effectively in a professional setting whilst working as a doctor. The Tribunal acknowledge that Dr Henderson has experienced difficulties in obtaining work due to restrictions imposed on his practice, however, it remains concerned that Dr Henderson has not experienced the routine stressors of clinical practice for several years, having been dismissed from his position in February 2022 when his offending came to light.

40. The Tribunal also considered that, while Dr Henderson was clearly experiencing significant personal stressors at the time of his offending, the life events he experienced were not so extraordinary that similar events would be unlikely to reoccur. Taking into account Dr Henderson's history of maladaptive coping behaviour, the Tribunal was not satisfied that Dr Henderson has evidenced that he would cope differently with similarly stressful situations in future, whilst working in a busy clinical role.

41. In considering whether Dr Henderson'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. It concluded that Dr Henderson's offending behaviour had put patients at risk of harm, had seriously undermined public trust and confidence in the medical profession and brought the medical profession into disrepute.

42. In addition, the Tribunal concluded that a finding of impairment in respect of Dr Henderson's conviction was required in order 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. The Tribunal considered that this was a particularly serious conviction for dishonesty arising out of Dr Henderson's clinical practice.

43. The Tribunal therefore determined that Dr Henderson's fitness to practise is currently impaired by reason of his conviction.

Determination on Sanction - 08/08/2025

44. Having determined that Dr Henderson's fitness to practise is impaired by reason of conviction, 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

On behalf of the GMC

45. On behalf of the GMC, Mr Molloy submitted that the appropriate and proportionate sanction in this case was erasure. He referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (the SG). Mr Molloy submitted that Dr Henderson's actions represented a serious departure from the principles of Good Medical Practice. He further submitted that Dr Henderson represented a current and ongoing risk of repeating his offending behaviour, pointing to the Tribunal's determination on Impairment in which it identified a risk of repetition of some of the issues which contributed to Dr Henderson's actions and of his poor decision making.

46. Mr Molloy submitted that the Tribunal was less able to take mitigating factors into account in a case where there is a concern about patient safety or is of a more serious nature. Mr Molloy submitted that the Tribunal should take into account aggravating factors, such as Dr Henderson's abuse of his professional position in writing the fraudulent prescriptions. He submitted that the Tribunal should be mindful that there are some cases where a doctor's failings are difficult to remediate, because they are so serious that there remains a current and ongoing risk to public protection and action is needed to maintain public confidence.

47. Mr Molloy submitted that Dr Henderson's dishonesty was deliberate, prolonged, repeated and serious. He submitted that Dr Henderson poses a current and ongoing risk to patient safety and that his conduct has had a detrimental effect on the reputation of the medical profession. He submitted that suspension would not be sufficient to protect the public, due to the serious nature of the dishonesty, which is difficult to remediate, the ongoing risk to patient safety, and the likelihood of repetition.

48. Mr Molloy took the Tribunal to paragraphs 108 and 109 of the Sanctions Guidance, submitting that Dr Henderson had 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. He submitted that subparagraphs a, b, d, h and i of paragraph 109 of the Sanctions Guidance were engaged. He referred to paragraph 128, which states that dishonesty, if persistent and/or covered up, is likely to result in erasure.

On behalf of Dr Henderson

49. On behalf of Dr Henderson, Mr Haycroft accepted that taking no action or imposing conditions of registration would not be sufficient to meet the seriousness of Dr Henderson's conviction. Mr Haycroft reminded the Tribunal that the purpose of sanctions is to uphold the overarching objective and not to take punitive action against a doctor and that they must be proportionate. Mr Haycroft submitted that Dr Henderson accepts that the Tribunal will likely have to decide between a period of 12 months suspension and erasure.

50. Mr Haycroft submitted that a period of suspension for 12 months with a review would meet all three limbs of the overarching objective as well as fulfilling the public interest in retaining a good doctor and would be proportionate in taking into account Dr Henderson's circumstances. He referred the Tribunal to paragraphs 91, 92, 93, 97 and 100 of the Sanctions Guidance.

51. Mr Haycroft submitted that the paragraphs of the Sanctions Guidance dealing with erasure should not be followed 'slavishly' and said that most serious cases could fit into these guidelines. He submitted that the key question in this case was whether or not Dr Henderson's conviction was so serious as to be fundamentally incompatible with continued registration. Referring to paragraph 107 of the Sanctions Guidance, Mr Haycroft submitted that erasure was not the 'only' means of protecting the public in this case. In referring to paragraph 108, Mr Haycroft submitted that, while action was necessary to maintain public confidence, it was a question of degree as to whether erasure was the appropriate action and submitted that in this case it was not.

52. Mr Haycroft submitted that Dr Henderson's actions may have been reckless, but that it could be said that it was not a deliberate disregard for the principles of GMP. Mr Haycroft drew the Tribunal's attention to the case of Abbas v GMC [2017] EWHC 51 (Admin) and submitted that there is a spectrum of dishonesty and erasure is not always required, and suspension may be appropriate in some cases. He submitted that this dishonesty, although serious and over a period of time, arose out of a misplaced wish to carry on working whilst self-dealing with XXX. He submitted that the contextual background should be taken into account in determining the degree of seriousness when considering whether erasure was proportionate.

53. Mr Haycroft submitted that while there may be a risk of repetition, this was a low risk. He submitted that there is never a case of 'no' risk of repetition. He submitted that the

contextual background of the case was in the past and that Dr Henderson has now been found to have 'good' insight. He submitted that, whilst Dr Henderson's coping mechanisms have not been tested in a professional setting, they have been tested in his personal life and voluntary work. Mr Haycroft submitted that, even if the Tribunal consider that the risk of repetition is currently greater than 'low', this was not an indication that erasure was appropriate, as any such risk could be addressed by further reflection and remediation.

54. In respect of the public interest, Mr Haycroft submitted that whilst there is a public interest concern in this case, there is also a public interest in retaining an otherwise honest and excellent clinician. He referred the Tribunal to Bolton v Law Society [1994] 2 All ER 486, which set out that the panel's concern with public confidence in the profession should not be carried to the extent of feeling it necessary to sacrifice the career of *'an otherwise competent and useful doctor who presents no danger to the public in order to satisfy a demand for blame and punishment'.*

Legal Advice

55. The Tribunal was reminded that the decision as to the appropriate sanction, if any, is a matter for the Tribunal's own judgement, which must be made independently.

56. The Tribunal was informed that it must have regard to the Sanctions Guidance dated 5 February 2024, which, although not statutory, gives it an authoritative steer. It should also consider Good Medical Practice ('GMP'). It is reminded that it must have regard to the aggravating and mitigating factors, and consider the least restrictive sanction first, and then move on, if needs be, to consider the other available options in ascending severity.

57. The Tribunal must bear in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest. The Tribunal should be mindful that this is a balancing exercise - weighing up what is in the public interest, as against the interest of Dr Henderson. Any sanction must be appropriate and proportionate. In the case of *Bolton v Law Society [1994] 1 WLR 512* it was made clear that the reputation of the profession as a whole is more important than the fortunes of any individual member, even if the consequences may be deeply unfortunate for them.

58. The Tribunal was made aware, again, of the overarching objective of the GMC set out in section 1 of the Medical Act 1983.

The Tribunal's Determination on Sanction

59. The Tribunal took into account the details of the criminal conviction and the evidence that it had received at earlier stages of this hearing. It considered the submission from both parties, and the legal advice from the LQC.

60. The Tribunal firstly considered and balanced the aggravating and mitigating factors in Dr Henderson's case.

Aggravating factors

61. The Tribunal considered that Dr Henderson's criminal conduct leading to his conviction not only took place in the course of his work as a doctor, but that the offences would not have been possible if he were not entrusted with the ability to prescribe medication. The Tribunal considered that Dr Henderson's offending represented a clear abuse of his position of trust as a doctor. Additionally, the Tribunal considered as an aggravating factor the prolonged and repeated nature of the offences, which were planned and took place over a period of several months.

62. The Tribunal noted that Dr Henderson has been convicted of two prior criminal offences, related to driving under the influence of alcohol. Dr Henderson was subject to investigation by the GMC on both occasions. However, it noted that Dr Henderson has not had a previous finding of impaired fitness to practise. The Tribunal determined that Dr Henderson's fitness to practise history was an aggravating factor.

Mitigating factors

63. The Tribunal considered that Dr Henderson's personal circumstances at the time of the events were a mitigating factor. At the time of his offending, Dr Henderson was XXX and was under stress in his personal life. The Tribunal had regard to Dr Henderson's evidence about the difficulties he was experiencing at this time, XXX and working during the pandemic whilst XXX. The Tribunal also noted Dr Henderson's evidence about stress he was experiencing at work and considered this to be a mitigating factor.

64. The Tribunal considered that Dr Henderson has shown evidence of insight and considered this to be a mitigating factor in this case. The Tribunal found that Dr Henderson has shown genuine remorse and regret for the actions which led to his conviction and has reflected on his wrongdoing in the time that has elapsed since the crime was discovered. The Tribunal considered that Dr Henderson has made what attempts he can to remediate given

that he has found it difficult to obtain clinical work whilst the GMC investigation has been ongoing. The Tribunal noted the testimonial evidence and witness evidence in respect of his clinical skill as well as his positive character changes since the matter came to light. It considered Dr Henderson's efforts toward remediation to be a further mitigating factor.

65. The Tribunal also considered that Dr Henderson was open and honest when the offending was discovered and has taken responsibility for his actions during the criminal proceedings and before this Tribunal.

No action

66. In reaching its decision as to the appropriate sanction, if any, to impose in Dr Henderson's case, the Tribunal first considered whether to conclude the case by taking no action. Taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

67. The Tribunal determined that the seriousness of its findings required the imposition of a sanction. It determined that, notwithstanding Dr Henderson's personal mitigation, there were no 'exceptional circumstances' in this case and it would not therefore be sufficient, proportionate or in the public interest to conclude this case by taking no action.

Conditions

68. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Henderson's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

69. It had regard to paragraph 81 of the Sanctions Guidance which states:

> *'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.'*

70. While the Tribunal recognised that paragraph 81 did not exhaustively limit the circumstances in which conditions might be appropriate, it considered that this was not a

case in which conditions would be either appropriate or proportionate. It reached its view bearing in mind the nature of Dr Henderson's conviction which related to serious dishonesty.

71. The Tribunal considered that conditions would be insufficient to meet the public interest and to maintain proper professional standards of conduct for the members of the profession. Accordingly, the Tribunal determined not to impose conditions on Dr Henderson's registration.

Suspension

72. The Tribunal had regard to the sections of the Sanctions Guidance that related to dishonesty and decided that any sanction needed to reflect the seriousness of dishonesty and the difficulties in remediating it. It noted, at paragraph 91, that suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and the public about what is behaviour unbefitting of a registered doctor.

73. The Tribunal considered paragraph 97 of the Sanctions Guidance which indicates circumstances in which suspension may be appropriate as follows. It decided that paragraphs *97a, e, f* and *g* applied in this case namely;

> *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.*
>
> *b …*
>
> *c …*
>
> *d …*
>
> *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.'*

74. This is a criminal conviction case involving serious dishonesty and representing a significant departure from GMP. It recognised that dishonesty is difficult to remediate but took the view that Dr Henderson has made efforts to do so and had gained good insight into the seriousness of his offending behaviour.

75. The Tribunal has not been provided with any evidence to suggest that Dr Henderson's continued attempts to fully develop his insight and to remediate will not be successful, particularly if he is able to put the positive coping mechanisms he has developed into practice whilst working in a clinical setting. The Tribunal noted Dr Henderson's previous convictions, however, it considered that the circumstances of these did not involve dishonesty and do not indicate that Dr Henderson lacks the capacity to develop his insight and remediate fully.

76. The Tribunal noted that there has been no repetition of any similar behaviour since the incident, however, it bore in mind that Dr Henderson has not been practising as a doctor in the period since his actions were discovered.

77. The Tribunal found at the Impairment stage of the hearing that Dr Henderson was at risk of repeating the maladaptive coping strategies which contributed to his offending behaviour, particularly as regards his not being transparent with those who may be able to identify when he needs support. This was because the Tribunal had no evidence that Dr Henderson had been able to put his positive coping mechanisms into practice, as he had not been working as a doctor. The Tribunal did not consider, however, that this means he is at significant risk of repeating the offending behaviour itself. The Tribunal considered that Dr Henderson has further progress to make in developing his insight and implementing his remediation, which should involve addressing the risks identified by the Tribunal of repetition of these maladaptive coping strategies. The Tribunal was satisfied, however, that this is not a case where there remains a significant risk of repetition in respect of a dishonesty conviction.

78. The Tribunal also had regard to paragraph 92 of the Sanctions Guidance, which states:

> *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).*

79. Having determined that Dr Henderson's dishonest conduct, which resulted in a criminal conviction and sentence, was very serious, the Tribunal gave careful consideration to whether this matter was so serious as to be fundamentally incompatible with continued registration.

80. The Tribunal took into account Dr Henderson's personal circumstances at the time of the offences. The Tribunal considered that this is significant context in considering the level of seriousness of Dr Henderson's actions. The Tribunal took into account that Dr Henderson's offending and XXX are linked in that his actions were motivated by a misguided desire to XXX and continue working in the interests of his patients. The Tribunal considered that, while Dr Henderson's XXX and difficult personal circumstances do not excuse or explain his behaviour, they mitigate the seriousness of the conduct together with the development of Dr Henderson's insight and steps taken toward remediation.

81. The Tribunal found that Dr Henderson has insight into his wrongdoing and has fully acknowledged fault. The Tribunal considered that the insight developed by Dr Henderson was, on a theoretical level, significant. In these circumstances, the Tribunal considered that it was not unreasonable to conclude that Dr Henderson would act differently in the future.

82. The Tribunal decided that Dr Henderson's actions were so serious that action must be taken to maintain public confidence in the profession, but in the circumstances, the behaviour falls short of being fundamentally incompatible with continued registration.

Erasure

83. Dishonesty is always serious and often leads to erasure, therefore the Tribunal considered the relevant paragraphs of the Sanctions Guidance carefully. It considered the factors set out in paragraph 109, which may indicate that erasure is appropriate.

84. The Tribunal had particular regard to sub paragraph 109h, which states that erasure may be appropriate in instances of dishonesty which are 'persistent and/or covered up.' Whilst the Tribunal accepts that Dr Henderson's dishonesty persisted over a period of several months and that he planned to prevent the discovery of his actions as part of the dishonesty, it did not consider that it was 'covered up' in the sense of Dr Henderson having taken any steps to conceal what he had done after it was discovered. The Tribunal further considered that Dr Henderson began the process of developing his insight around the time that his actions came to light, rather than waiting until he was convicted of the offence some time later.

85. Where, because of the seriousness of the doctor's misconduct, a decision has to be made between suspension or erasure it is likely that elements of the guidance on erasure will start to become engaged even if many of the sub-paragraphs on suspension are also engaged. Having balanced these considerations carefully, the Tribunal was satisfied that a member of the public, aware of all the circumstances and cognisant in particular of the Tribunal's decision that sub paragraphs 97e and 97g (above) were engaged, would agree that, although this was a serious departure from GMP, it was not fundamentally incompatible with Dr Henderson's continued registration. This was particularly so in this case where there was XXX which contributed to the offending.

86. The Tribunal found that erasure would be disproportionate in this case. It decided that a period of suspension would be sufficient to protect, promote and maintain public confidence in the profession and to protect, promote and maintain proper professional standards for members of the profession.

87. The Tribunal therefore determined to impose a period of suspension on Dr Henderson's registration.

Length of the order and review

88. The Tribunal then went on to consider the length of such an order. The Tribunal reminded itself that the length of the suspension is a matter for the Tribunal's discretion, depending on the seriousness of the case. The Tribunal took account of paragraph 100 of the Sanctions Guidance which sets out relevant factors to be considered when determining the length of suspension:

a) the risk to patient safety/public protection
b) the seriousness of the findings and any mitigating or aggravating factors
c) ensuring the doctor has adequate time to remediate

89. The Tribunal also took account of paragraphs 101 and 102 and the table on page 30 of the Sanctions Guidance which sets out the areas and relevant factors to consider. It reminded itself that its primary consideration was to maintain public confidence, uphold proper professional standards. Sending out a signal to the doctor, the wider profession and the public was important too, in order to demonstrate that behaviour of this sort will attract regulatory action.

90. The Tribunal determined that a period of twelve months would be sufficient time to meet the seriousness of the findings and the public interest in the case and send the appropriate message to the profession.

91. The Tribunal determined to direct a review of Dr Henderson'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 Henderson to demonstrate how he has remediated. It may assist the reviewing Tribunal if Dr Henderson provides:

- Testimonials for all paid and unpaid work he has undertaken;
- Evidence of all the steps he has taken to keep his knowledge and skills up-to-date;
- Evidence of how he has used his coping mechanisms in stressful environments.

Dr Henderson will also be able to provide any other information that he considers will assist.

Determination on Immediate Order - 08/08/2025

92. Having determined to suspend Dr Henderson's registration for a period of 12 months, 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

93. On behalf of the GMC, Mr Molloy submitted that, given the serious nature of the case and the findings made by the Tribunal, an immediate order is necessary in this case.

94. On behalf of Dr Henderson, Mr Haycroft submitted that he did not oppose the application and stated that the interim order in place should be revoked.

The Tribunal's Determination

95. In reaching its decision, the Tribunal considered the relevant paragraphs of the Sanctions Guidance 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.'

96. The Tribunal determined that an immediate order was necessary to protect public confidence in the medical profession and is otherwise in the public interest. The Tribunal considered that to do otherwise would be inconsistent with its earlier determination.

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

98. The interim order is hereby revoked.

99. That concludes this case.