

**PUBLIC RECORD****Dates:** 06/10/2025 - 15/10/2025**Doctor:** Dr Andrej GRAJN**GMC reference number:** 7518406**Primary medical qualification:** MD 2005 Univerza v Ljubljani

| Type of case                            | Outcome on facts                          | Outcome on impairment |
|---|---|-----------------------|
| New - Determination by an overseas body | Facts relevant to impairment found proved | Impaired              |
| New - Misconduct                        | Facts relevant to impairment found proved | Impaired              |

**Summary of outcome**

Suspension  
Immediate order imposed

**Tribunal:**

|                             |                    |
|-----------------------------|--------------------|
| Legally Qualified Chair     | Ms Stacey Patel    |
| Lay Tribunal Member:        | William McClune    |
| Registrant Tribunal Member: | Dr Matthew O'Meara |

|                 |                   |
|-----------------|-------------------|
| Tribunal Clerk: | Ms Fiona Johnston |
|-----------------|-------------------|

**Attendance and Representation:**

|                     |                              |
|---------------------|------------------------------|
| Doctor:             | Present, not represented     |
| GMC Representative: | Ms Georgina Goring , 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 - 09/10/2025

### Background

1. Mr Grajn qualified in 2005 from University of Ljubljani in Slovenia. Mr Grajn has been registered continuously with the GMC since 17 July 2017.
2. Mr Grajn gained employment in 2020 at Royal Free London NHS as a senior clinical fellow and locum consultant in transplant surgery. Prior to this he worked at Manchester Foundation Trust (MFT).
3. The matters before the Tribunal relate to misconduct concerns raised about Mr Grajn in relation to a fitness to practise Tribunal referral by the Australian Health Practitioner Regulation Agency (AHPRA) and the failure to disclose the investigation to the GMC.

### Timeline of the Matters Leading to the Allegations

4. On June 2019, the AHPRA contacted the GMC and requested the following information about Mr Grajn's GMC registration.
  - whether Mr Grajn held registration with the GMC, and if so, whether there were any restrictions currently in place on his registration; and
  - whether any investigations or disciplinary proceedings were in place or contemplated.

They also disclosed to the GMC that Mr Grajn had been referred to a Tribunal following an investigation that concluded that '*Mr Grajn has behaved in a way that constitutes professional misconduct*'.

5. On 29 July 2022 the AHPRA notified the GMC that concerns regarding Mr Grajn's conduct had been raised whilst he was registered and practising in Australia, an investigation into these concerns had now concluded and subsequently his case had been referred for consideration at the Queensland Civil and Administrative Tribunal.

6. In an email dated 30 September 2022, the AHPRA provided a list of allegations being considered by the Tribunal and stated that '*Broadly, it is alleged that Mr Grajn engaged in professional misconduct by failing to maintain appropriate professional boundaries with a patient/former patient between February 2016 and September 2017 by engaging in an inappropriate personal and/or sexual relationship*'.

7. The Queensland Civil and Administrative Tribunal's ('QCAT') determination dated 13 September 2023 found that Mr Grajn '*has behaved in a way that constitutes professional misconduct*', and it decided to disqualify him from applying for registration as a registered health practitioner in Australia for a period of 2 years from 13 September 2023.

8. On the 21 February 2024, the GMC became aware of the outcome of this case and the determination by way of a press article, following a referral by the Royal Free Trust ('Trust').

9. On 20 March 2024 the GMC received a copy of the QCAT determination in relation to Mr Grajn's proceedings.

10. On the 5 March 2024, the GMC notified Mr Grajn that an investigation had been opened regarding his fitness to practise.

11. On 18 September 2024 AHPRA provided the GMC with the email correspondence with Mr Grajn enclosing the certified QCAT decision and determination.

12. On the January 2025 Mr Grajn's case was referred for determination by a medical practitioner's tribunal hearing.

### **The Allegation and the Doctor's Response**

13. The Allegation made against Mr Grajn is as follows:

**Record of Determinations –  
Medical Practitioners Tribunal**

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

1. On 13 September 2023, the Medical Board of Australia determined:
  - a. that you behaved in a way that constituted professional misconduct; **To be determined**
  - b. to disqualify you from applying for registration as a registered health practitioner for a period of two years. **To be determined**
2. You failed to disclose the determination set out at paragraph 1 to:
  - a. the General Medical Council; **To be determined**
  - b. your employer, Royal Free London NHS Foundation Trust. **To be determined**

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

- a. the determination by an overseas body that your fitness to practise is impaired, in relation to paragraph 1; **To be determined**
- b. your misconduct, in relation to paragraph 2. **To be determined**

### **The Facts to be Determined**

14. In light of Mr Grajn's response to the Allegation made against him, the Tribunal is required to decide whether the Medical Board of Australia determined that he behaved in a way that constituted professional misconduct and further, whether it imposed any sanction on Mr Grajn's registration. If the Tribunal finds that such a determination was made, it must then consider whether Mr Grajn's failure to disclose the determination of the Medical Board of Australia to his employer and inform the GMC amounted to misconduct.

### **Witness Evidence**

15. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were called to give oral evidence.

- Ms A, Investigations Manger at the GMC, dated 03 April 2025;
- Dr B, Responsible Officer ('RO') at Royal Free London NHS Foundation Trust., dated 14 March 2025.

16. The Tribunal received evidence on behalf of the doctor in the form of witness statement from the following witness:

- Mr C, Consultant at the Trust.

17. Mr Grajn provided a remediation and insight statement dated 20 April 2025 and also gave oral evidence at the hearing.

18. Mr Grajn told the Tribunal that he entered into a relationship with a former patient, whom he had treated a year after he had finished treating her. He submitted that the patient reached out to him in terms of a relationship, and he was '*stupid enough to submit to her advances and charms*'.

19. However, Mr Grajn explained that according to the guidelines of both the GMC and AHPRA, while the relationship with a current patient, of course, is misconduct, a relationship with a former patient is not.

20. Mr Grajn stated that the patient was not vulnerable. He did not provide any emotional care. He just carried out her surgery and she was discharged as per normal.

21. Mr Grajn stated the GMC knew about the proceedings in Australia. They contacted him about the matter. He said that there was no finding by the Australian Board before September 2023 and most importantly, there was no basis to that finding as he did not have his Australian Registration at the time.

22. Mr Grajn explained that there is correspondence from the GMC dated March 2023. He stated the GMC said they were OK with the Doctor continuing to work and they would await the outcome and there was no follow up from them.

23. Mr Grajn submitted that on the appraisal forms and on the employment forms, it does not explicitly say that he needs to disclose any overseas matters.

24. Mr Grajn told the Tribunal that he was not practising in Australia so that does not restrict his practice. His practice at the time was in the UK and the only one who can restrict practice in the UK is the GMC, not the Australian board. He explained that he was waiting for the instructions of the GMC because he was expecting them to tell him what exactly he needed to do.

25. He said that his actions do not amount to misconduct according to the GMC guidelines.

26. He went on to tell the Tribunal that he did recently apply for two posts after all this has happened and on these occasions, he declared everything; he was even shortlisted. Again, Mr Grajn reiterated that there is not an explicit requirement to inform the employer first. He was not suspended in 2023 because he was not on the register.

### Documentary Evidence

27. The Tribunal had regard to the documentary evidence provided by both parties. This evidence included but was not limited to statements, email exchanges, telephone notes, QCAT determination, Royal Free Trust MHPS investigation report and disciplinary outcome, CPD certificates, testimonials, application forms and Mr Grajn's reflective statement.

### The Tribunal's Approach

28. 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 Allegations. Mr Grajn 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.

29. The Tribunal was mindful that it should approach fact finding by first identifying agreed facts and evidence to reach a decision on the disputed facts. The Tribunal assessed the evidence in the round, and considered what conclusions and inferences could be drawn from the documentary evidence.

30. The Tribunal bore in mind that it should make a rounded assessment of a witness's reliability, rather than approaching their reliability in respect of each charge in isolation from the others. The Tribunal reminded itself that it should consider all the evidence before them before reaching a conclusion about a witness's credibility. This could include conflicts in evidence with another witness, denials of the allegations and reasons why they could not be true or admissions of lying (on oath or otherwise) on a previous occasion.

31. The Tribunal was also mindful of Rule 34 of the Rules, in particular:

**34...**

*(4) Production of a certificate signed by an officer of a regulatory body that has made a determination about the fitness to practice of a person shall be conclusive evidence of the facts found proved in relation to that determination.*

*(5) The only evidence which may be adduced by the practitioner in rebuttal of a conviction or determination certified in the manner specified in paragraph (4) is evidence for the purposes of proving that he is not the person referred to in the certificate or extract.*

32. The Tribunal noted it received in evidence a signed determination from AHPRA and no evidence to the effect that the doctor was not the person referred to in that determination. In accordance with Rule 34(5) the Tribunal accepted the signed determination as conclusive evidence that the facts are as found by that determination.

### The Tribunal's Analysis of the Evidence and Findings

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

#### Paragraphs 1a&b

34. The Tribunal had regard to the determination issued by the AHPRA, dated 17 November 2023, which contained Mr Grajn's professional details and the reason for the decision. It noted that, on 13 September 2023, QCAT made the following findings and orders.

*'On 20 June 2022, the Medical Board of Australia ('the Board') referred a disciplinary matter to the Tribunal which contained one allegation against the respondent, a registered medical practitioner at all relevant times; namely, that he engaged in professional misconduct in that between February 2016 and on or about 2 September 2017, he failed to maintain appropriate professional boundaries with a patient and/or former patient, HBM, by engaging in an inappropriate personal and/or sexual relationship with her.*

....

*1.Pursuant to section 196(1)(b)(iii) of the National Law, the Tribunal finds that the respondent has behaved in a way that constitutes professional misconduct.*

*2.Pursuant to section 196(2)(a) of the National Law, the respondent is reprimanded.*

*3.Pursuant to section 196(4)(a), the respondent is disqualified for applying for registration as a registered health practitioner for a period of 2 years from 13 September 2023.*

*4.No order as to costs.'*

35. The Tribunal also noted an email correspondence between QCAT and Mr Grajn dated: 18 September 2023.

*'I am writing to you about the outcome of the above matter and refer to the Orders made by the Queensland Civil and Administrative Tribunal (**Tribunal**) dated 13 September 2023.'*

***Your registration***

*Your name has been added to the register of Cancelled, disqualified and/or prohibited health practitioners (**Cancelled Register**) to reflect the Tribunal's decision.*

*Your registration status is:*

**Registration Status:** Unregistered

**Reprimand:** Yes

**Disqualified:** You are disqualified from applying for registration as a registered health practitioner within Australia until 13 September 2025.'

36. The Tribunal noted that on 23 September 2025 Mr Grajn initially in his response to the GMC 'draft allegations' admitted that a determination had been issued '*I admit the chronology only: that QCAT issued a decision on 13 September 2023, and that I did not separately notify GMC/RFL.*'

37. The Tribunal also considered Dr Grajn's submissions that it must not adopt another body's findings and instead make its own independent assessment (*R v Abrahaem*) v GMC [2004] EWHC 279 (Admin) at para [24]-[27]). The Tribunal accepted this would be the correct approach if it were being asked to determine the original facts as found by QCAT. However, as Rule 34 does not require the GMC to re-prove those facts, this did not apply in this case.

38. Whilst the Tribunal listened carefully to and took account of Mr Grajn's submissions, it determined it had no discretion outside the parameters set by Rule 39. With the evidence available, the Tribunal was satisfied that the Medical Board of Australia had determined that Mr Grajn had behaved in a way that constituted professional misconduct and that he was disqualified from applying for registration as a registered health practitioner for two years.

40. In particular, it considered Mr Grajn's submission that the Medical Board of Australia could not make a finding against his registration as it was non-existent at the time and that the Medical Board had acted beyond its remit. This Tribunal determined that it was not in any position to consider the remit of the Medical Board in Australia. According to the

allegation before this Tribunal, it was simply being asked to determine whether or not the Australian board had in fact made a determination. It was in no position to consider the legitimacy of it or otherwise.

41. It therefore found paragraph one of the allegation in its entirety proved.

Paragraph 2a

42. The Tribunal was mindful that it must find that there was a duty on Mr Grajn to inform the GMC without delay. It had regard to paragraph 75 of GMP, which states:

*'You must tell us without delay if, anywhere in the world:*

*...*

*'c another professional body has made a finding against your registration as a result of fitness to practise procedures.'*

43. In the GMC guidance titled '*Reporting criminal and Regulatory Proceedings*', paragraph 4(g) directs;

*'You must tell us without delay if, anywhere in the world, you...have had your registration restricted, or have been found guilty of an offence, by another medical or other professional regulatory body.'*

It also recommends practitioners seek advice from a defence body, medical association or the GMC if the practitioner is unsure on whether there is a need to report any of the matters set out in the guidance.

44. The Tribunal noted that Mr Grajn accepts that he was aware of the determination issued by the Medical Board of Australia as of 18 September 2023.

45. Mr Grajn further accepts that he was under a duty of disclosure to inform his employer and the General Medical Council (GMC) of any such regulatory determination. He acknowledged that, as a doctor registered with the GMC, he is bound by the principles set out in *GMP*.

46. However, the Tribunal also noted that, in both his evidence and closing submissions, Mr Grajn relied upon his own interpretation of paragraph 75 of *GMP* to support his position.

He contended that his understanding of this paragraph led him to believe that disclosure of the Medical Board of Australia's determination was not required.

*'It is very obvious that in Australia the proceedings against me were conducted in a purely punitive intent with the body that should deliver sanction for a protective measure. I was not registered in Australia since 2017.'*

*'Miss Goring has shown the document herself. When it is said that I have unregistered [sic] status, which means that every sanction based on that is punitive and thus it's beyond remit of the regulatory court.....'*

*'A second thing in terms of good medical practises, I stick to it literally. It seems that they have a problem of accepting what is clearly written. My registration in Australia did not exist, and I repeat that it did not exist since 2017. Therefore, you cannot find. Anything against the matter that is not in existence unless you have come up with some new quantum physics which you didn't.....'*

*'So I submit that this might be a more or less bureaucratic misunderstanding rather than any significant issue. There is ample evidence that this had no effect on my work, which is what should be the key thing and what should be the strongest evidence there is.....'*

*'I wasn't practising in Australia. I didn't have, I wasn't on the register there. So you cannot restrict me if I'm not on the register. You cannot suspend me because I'm not on the register for something that doesn't exist.'*

47. The Tribunal considered Mr Grajn's explanation carefully. However, it found that a sanction had in fact been imposed upon him by the Medical Board of Australia, regardless of whether he was formally registered at the time. The Tribunal considered that the relevant principles underlying GMP included 'Maintaining Trust'. The Tribunal concluded that even if Dr Grajn's Australian registration had lapsed, a finding of misconduct by a foreign regulatory body is a determination that constituted regulatory action to which the principles of GMP apply.

48. The Tribunal noted that paragraph 75 of GMP makes it clear that doctors must be open and honest with their employers and with the GMC if they have accepted a caution, been criticised or sanctioned by another regulatory authority. Accordingly, the Tribunal determined that Mr Grajn ought to have disclosed the Medical Board of Australia's determination to the GMC without delay.

49. The Tribunal also took into account the evidence of the Investigation manager, Ms A:

*'I have conducted a search of Siebel and can confirm that there is no record of Mr Grajn informing the GMC of this determination in the five months between the determination being made and the GMC case being opened and disclosed.'*

50. The Tribunal concluded that there was clear evidence that Mr Grajn failed to inform the GMC of the determination made by the Medical Board of Australia. Despite being aware of the outcome of the Australian proceedings, he did not take any steps to notify the GMC as required.

51. The Tribunal carefully considered Mr Grajn's explanation that the GMC already knew about the investigation. It noted the point that the GMC had been in correspondence with Mr Grajn about the investigation from 2019. It further noted the email sent to Mr Grajn in which it said it would close this initial enquiry as they needed to wait for the formal outcome of the overseas Tribunal. The Tribunal acknowledged Mr Grajn's argument that this signalled to him that the GMC knew and were aware and waiting for the final determination. However, it concluded that this did not obviate the need for Mr Grajn to adhere to the guidance in GMP paragraph 75. In a situation in which there were on-going investigations and proceedings in which Mr Grajn was involved, it found it difficult to understand why Mr Grajn would not inform the GMC of the determination without delay in September 2023.

52. It rejected his submission that the failure to disclose was a '*bureaucratic issue*'. Paragraph 75 of GMP appears in the section titled '*Act with Honesty and Integrity*' and the tribunal noted that this creates an explicit duty to inform the GMC of any finding made against a registrant, which is much more than a bureaucratic issue.

53. Therefore, having considered all the documentary and oral evidence before it, the Tribunal found paragraph 2(a) of the Allegation proved.

#### Paragraph 2B

54. In determining this paragraph of the allegation, the Tribunal had regard to paragraph 76 of the GMP:

*'If you are suspended by an organisation from a medical post, or have restrictions placed on your practice, you must, without delay, inform any other organisations you carry out medical work for and any patients you see independently.'*

55. The Tribunal also took into account the witness evidence of Dr B, Mr Grajn's RO. It was clear from her evidence that she was not aware of the determination made by the Medical Board of Australia until she was informed by a member of staff.

*'until 21 February 2024 I was not aware of Mr Grajn until I was informed by a member of staff at the Trust of an online article which related to a Queensland Civil and Administrative Tribunal ('QCAT') determination involving Mr Grajn, who had been working in Australia. At the time, Mr Grajn was employed by the Trust as a Senior Clinical Fellow (Hepatology surgery and liver transplant service) and had been in post since 17 July 2020.*

....

*On 30 April 2024, following the commencement of the MHPS investigation, [Dr D] (Consultant Palliative Care and Medical Examiner at the Trust), acting as the MHPS case investigator contacted Mr Grajn to obtain further information about the GMC correspondence of March 2023.*

*In his reply, Mr Grajn confirmed by his own admission, that he did not inform his employers'.*

56. The Tribunal took into account Mr Grajn's argument, during his closing submissions to the Tribunal he stated;

*'Are they any restrictions proceedings [sic] against that might imply that might affect my suitability to work in UK? Clearly this is not the case because only body that can do this for my practice in UK is GMC Proceedings, no matter what, cannot affect my practise in UK and I think that has been proven, so that's my submissions.'*

57. The Tribunal had regard to Mr Grajn's applications for employment to the Trust dated 2019 and 2023. The application asks, 'Are you currently subject to a fitness to practice investigation and/or proceedings by a regulatory or licensing body which may have a bearing on your suitability for the position you are applying for? This may include any fitness to practice investigation and/or proceedings of any nature that are being undertaken by a regulatory or licensing body in any other country?'. To which Mr Grajn had responded 'No'. In evidence, Dr Grajn explained that this was because the misconduct proceedings in no way impacted his clinical skills and therefore it did not "have a bearing on his suitability".

58. The Tribunal noted, from the chronological timeline of events, that the AHPRA opened an investigation into Mr Grajn and informed him of this on 19 March 2019. A hearing before the Queensland Civil and Administrative Tribunal took place on 13 September 2023, and the decision was emailed to the parties on 14 September 2023. A formal written notice of determination was subsequently sent to Mr Grajn by email on 18 September 2023, and on 17 November 2023 the Tribunal issued its written reasons for the decision. The Tribunal further noted that Mr Grajn responded to correspondence from the Australian Tribunal on 19, 21, and 26 November 2023, demonstrating that he was fully aware of the proceedings and their outcome.

59. The Tribunal also considered Mr Grajn's explanation to this Tribunal as to why he had indicated "No" in his applications, namely that:

*"Proceedings triggered by AHPRA are still ongoing; thus, until they are finished, I believe it is a presumption of innocence until proven."*

60. However, having reviewed the detailed correspondence and documentation that Mr Grajn received and responded to regarding the investigation, the Tribunal was satisfied that he was fully aware that his registration had been disqualified by the Medical Board of Australia in September 2023. In his written statement to the Trust dated September 2024, Mr Grajn stated:

*'I erred by not declaring the to my employer, but I was assuming a presumption of innocence until proven guilty. It was not clear to me that the criticisms that came about would be quite as damning. I realise, now, that I should have informed my employer'*

61. During the course of the hearing, the Tribunal noted that Mr Grajn's argument was that the findings of the Australian Tribunal did not impact his ability to carry out his clinical role in the United Kingdom. He maintained that the findings were made in Australia, at a time when he did not hold a current licence, and that the proceedings were, in his view, *'inaccurate, biased, and exaggerated.'* The Tribunal also noted that Mr Grajn did not appeal the decision of the Queensland Tribunal. The Tribunal also took into account Dr Grajn's submissions that he was treated unfairly by the Trust regarding his exclusion, however, this was not a matter on which the Tribunal was being asked to decide.

62. The Tribunal took into account Mr C's witness statement and oral evidence testifying to Mr Grajn's excellent work ethic, clinical work and commitment to the speciality of organ transplantation. However, this evidence did not assist the Tribunal in determining the factual nature of the allegations, therefore limited weight was placed on it at this stage of the proceedings. It also noted Mr Grajn's own submissions in which he stated that the events in Australia did not affect his suitability to perform his clinical work. The Tribunal rejected Mr Grajn's submission that it was open to him to interpret the application form as suitability to perform his clinical role, which it accepted on the evidence was done to a high standard. The purpose of this question is broader than a strict interpretation of the word 'suitability' meaning clinical role.

63. The Tribunal concluded that, regardless of Mr Grajn's submissions, or whether he was formally licensed at the time, the sanction imposed by the Australian regulatory authority—namely, that he was disqualified from applying for registration as a health practitioner for a period of two years—was a clear and formal regulatory determination. The

Tribunal was satisfied that, on any reasonable interpretation, this was a matter that should have been disclosed to both his employer and the GMC.

64. Accordingly, the Tribunal concluded that he ought to have informed his employer of the suspension at that time and found paragraph 2b proved.

### The Tribunal's Overall Determination on the Facts

65. The Tribunal has determined the facts as follows:

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

1. On 13 September 2023, the Medical Board of Australia determined:
  - a. that you behaved in a way that constituted professional misconduct; Determined and found proved
  - b. to disqualify you from applying for registration as a registered health practitioner for a period of two years. Determined and found proved
2. You failed to disclose the determination set out at paragraph 1 to:
  - a. the General Medical Council; Determined and found proved
  - b. your employer, Royal Free London NHS Foundation Trust. Determined and found proved

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

- a. the determination by an overseas body that your fitness to practise is impaired, in relation to paragraph 1;
- b. your misconduct, in relation to paragraph 2.

### Determination on Impairment - 14/10/2025

1. 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, Mr Grajn's fitness to practise is impaired by reason of a previous determination by an overseas body and his misconduct.
2. The Tribunal has taken into account the following evidence it received during the hearing: Mr C's evidence given at the fact finding stage, character testimonials

(various dates in 2024) and evidence of attendance at various CPD courses relating to probity and ethics.

## Submissions

### On behalf of the GMC

3. Ms Goring provided written submissions stating that Mr Grajn's fitness to practise is impaired both by virtue of misconduct and by determination of an overseas regulatory body.
4. In terms of the allegations relating to Mr Grajn's misconduct, Ms Goring drew the Tribunal's attention to paragraphs 65, 75 and 76 of GMP, which she submitted were engaged by Mr Grajn's conduct in this case.
5. Ms Goring submitted that Mr Grajn failed to inform both the GMC and his employer about the Australian determination and is in plain breach of the above provisions.
6. She submitted that these breaches persisted for a number of months (18 September 2023 – February 2024) and were in relation to two separate organisations and on that basis amounts to serious misconduct.
7. With regards to impairment Ms Goring referred the Tribunal to the test on impairment as set out in the case of *CHRE v NMC and Grant [2011] EWHC 97* and submitted that all four limbs are engaged for the following reasons:
  - 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*
    - *One of the key purpose of doctors being registered with a regulator is so that patients can be kept safe.*
    - *By failing to disclose findings of a regulator to both the GMC and his employer could lead to potential patient safety issues – in failing to put in place provisions to protect patients in light of regulatory findings made.*
  - b. *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

- *Doctors acting in plain breach of the duties imposed upon them by Good Medical Practice and their regulator clearly bring the profession into disrepute.*
  - *A member of the public's confidence would be undermined in the wider profession if they were to learn about the circumstances of this case.*
- c. *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- *Acting with honesty and integrity is a cornerstone principle of the medical profession.*
- d. *has in the past acted dishonestly and/or is liable to act dishonestly in the future.”*
- *There is no dishonesty but the doctor has breached multiple GMP obligations under the section ‘acting with honesty and integrity’.*
8. With regards to insight and remediation she submitted that Mr Grajn has limited insight. She submitted that Mr Grajn has not shown any remorse, offered no reflections on his misconduct, not understood the importance of why the GMC should be informed about his Australian determination and Mr Grajn’s own interpretation of the GMP provisions is concerning.
9. She submitted that Mr Grajn has provided evidence of courses undertaken and reflection upon those courses. However, the Tribunal may consider that those reflections are limited in light of the doctors’ oral submissions and evidence.
10. She submitted that Mr Grajn has limited insight and understanding in relation to the lack of disclosure of the determination. Furthermore, he does not appear to understand the importance nor the function of his regulator.
11. She submitted that the determination of the Australian regulator makes clear findings that Mr Grajn behaved in a way that constituted professional misconduct, based to an extent on patient safety concerns. She submitted that this led to a severe sanction of the doctor being disqualified from applying for registration as a registered health practitioner for a period of two years.
12. She submitted that there is some insight into the circumstances which led to the findings found proved at the fact stage, but it is a matter for the Tribunal to fully assess that insight and remediation.

13. She submitted that the Tribunal is reminded not to re-open the facts considered by the Australian regulator. She also submitted that applying the principles of *Grant* and the provisions in GMP, the GMC invite the Tribunal to find Mr Grajn's fitness to practise impaired by reason of misconduct and by determination of an overseas regulatory body.

Mr Grajn

14. Mr Grajn provided written submissions which are repeated below. He submitted that it is for the Tribunal to decide whether his fitness to practise is currently impaired.

15. He referred the Tribunal to the relevant caselaw in *Cohen v GMC [2008] EWHC 581 (Admin)*, *Abraheem v GMC [2023] EWHC 1795 (Admin)* and in particular to consider the limbs as set out in *Grant*.

(a): *Risk to Patients*

- *The evidence demonstrates six years of continuous, safe and effective clinical practice in the UK (2018 – 2024).*
- *There have been no boundary or clinical concerns, no patient complaints, and no GMC referrals during this entire period.*
- *Multiple senior colleagues and consultants have provided written and oral evidence confirming competence, reliability, and collegiality.*
- *Even the Trust witnesses called by the GMC accepted there were no clinical or behavioural risks.*

*Finding:* There is no current or foreseeable risk to patients. Limb (a) therefore fails.

*Limb (b): Risk to Professional Standards or Future Repetition*

- *Limb (b) is a forward-looking test. The Tribunal must assess the likelihood of repetition or continuing attitudinal defect, not re-litigate past events.*
- *The unchallenged evidence of sustained, conscientious work since 2018 and the absence of any recurrence conclusively demonstrate that any past concerns have been fully remediated.*
- *In *Cohen v GMC*, the Court held that where deficiencies have been remedied and years of safe practice followed, a finding of current impairment is neither necessary nor proportionate.*
- *The Tribunal heard credible evidence of insight into regulatory obligations and the steps I have taken to ensure transparent communication with future employers and regulators.*

*Finding: There is no ongoing attitudinal or behavioural risk to professional standards. Limb (b) therefore fails.*

*(c): Public Confidence and Upholding Standards*

- Limb (c) is derivative, not free-standing. It applies only where a current risk under limbs (a) or (b) exists.
- The High Court in *Grant* and again in *Abraheem* made clear that public-confidence considerations cannot create impairment where no present risk exists.
- Public confidence in the profession is best served by recognising rehabilitation and proportionate fairness, not by symbolic punishment.
- The GMC's own Sanctions Guidance (paras 24–25) states that time elapsed and evidence of remediation must be weighed heavily in determining current impairment.

*Finding: There is no basis for concluding that public confidence requires an impairment finding when six years of safe and ethical practice have been proved. Limb (c) cannot stand alone.*

16. He submitted that the Tribunal must also act consistently with principles of fairness and rationality.

- A finding of current impairment in the face of uncontested evidence of remediation would be irrational, disproportionate, and contrary to established case law.
- To ignore the 2018–2024 record would amount to a failure to consider relevant evidence and breach Article 6 ECHR fairness requirements.

17. The Tribunal noted Mr Grajn's previous written submissions in which he pointed the Tribunal to the case of *Calhaem v GMC [2007] EWHC 2606 (Admin)*, highlighting that only serious misconduct would justify misconduct. He submitted that the previous relationship with a former patient is unwise, but does not constitute misconduct. He also cited the cases of *Gupta v GMC [2001] UKHL 61* and *Nicholas-Pillai v GMC [2009] EWHC 1048 (Admin)*, explaining that his denial and rejection of the QCAT finding does not amount to the lack of insight. He went on to tell the Tribunal that a lack of admission is not the same as the lack of insight and that the reflective UK practice he has provided shows genuine insight. He also explained to the Tribunal that past misconduct does not automatically equal impairment and that his risk of repetition must be considered in the context of six years of practice, citing the case of *Yeong v GMC [2009] EWHC 1923 (Admin)* in the process.

18. In conclusion he submitted that all three limbs of the *Grant* test fail on the evidence before the Tribunal. Therefore, his fitness to practise is not currently impaired.

## The Relevant Legal Principles

19. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision on impairment is a matter for the Tribunal's judgement alone. When reaching its determination, the Tribunal had regard to the overarching objective and the standards set out in GMP.
20. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted when considering the allegations relating to Mr Grajn's misconduct: first whether the facts as found proved amounted to misconduct, then whether the finding of that misconduct could lead to a finding of impairment.
21. The Tribunal was reminded of the guidance from the case of *Roylance v GMC [No 2] [2000] 1 AC 311* where it was advised that:

*'misconduct is a word of general effect involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.'*
22. The Tribunal reminded itself that impairment is a forward-looking assessment, not intended to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. The Tribunal must determine whether Mr Grajn's fitness to practise is impaired today, taking into account Mr Grajn's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.
23. 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. acted dishonestly, (although the Tribunal noted that the GMC did not bring the case on any dishonest basis).
24. The Tribunal reminded itself of the principles in the case of *Sawati v GMC [2022] EWHC 283 (Admin)*. The starting point being that Doctors are properly and fairly entitled to defend themselves, so Mr Grajn's denial of the facts did not impact their decision.

### The Tribunal's Determination on Impairment

#### Misconduct

25. The Tribunal first considered whether allegation 2a& b, as found proved, amounted to misconduct, and if so, whether that misconduct was serious. It considered the relevant paragraph of GMP, and reminded itself of its finding at the facts stage. In particular, it considered the proven breach against the wording of paragraphs 75 and 76. It considered that failing to inform his regulator and his employer, when he was fully aware of the Australian determination was a serious departure from this section of GMP and, in doing so, found that he had failed to act with openness and integrity.

26. Thus, the Tribunal determined this was misconduct which was serious.

#### Impairment

27. In reaching its determination the Tribunal had regard to the supplemental guidance '*Reporting criminal and regulatory proceedings within and outside the UK*' which reiterates the requirements around disclosure to the GMC where a doctor has had their '*registration restricted, or have been found guilty of an offence, by another medical or other professional regulatory body*' (paragraph 4.g). The guidance advises that if a doctor is unsure whether they need to report a matter, they should seek advice from a defence body or medical association or from the GMC.
28. The Tribunal noted that Mr Grajn has been registered with the GMC since 2017 and has practical working experience within the UK. As a GMC registrant, Mr Grajn is required to be familiar with *GMP* and the professional standards it sets out. It noted that, at the facts stage, it had found that Mr Grajn's conduct breached paragraph 75

of *GMP*, which requires doctors to inform the GMC without delay if another professional body anywhere in the world has made a finding against their registration.

29. The Tribunal further noted that the guidance is clear and unequivocal about the requirement to notify the GMC if any regulatory body has made a finding restricting a doctor's registration. Notification to the GMC ensures that, if necessary, it can initiate its own fitness to practise investigation or, where there is a potential risk to the public, take appropriate action to protect the public. Failure to make such a notification undermines the GMC's ability to fulfil its overarching objective.
30. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal looked for evidence of insight, remediation and the likelihood of repetition, bearing in mind the three elements of the overarching statutory objective.
31. In addition, the Tribunal also noted Mr C's evidence given at the fact finding stage. The Tribunal considered it relevant when considering the issue of impairment and took it into account when reaching its determination.
32. The Tribunal noted that, in his statement to the Trust and in his Rule 7 response to the GMC, Mr Grajn accepted that he should have informed both the GMC and his employer of his Australian determination at an earlier stage. He described this as an oversight on his part and, at the time, offered an apology for the delay.
33. However, the Tribunal observed that, in his oral evidence and submissions, Mr Grajn continued to minimise the seriousness of his actions. Previous earlier expressions of remorse appeared to have been withdrawn as Mr Grajn stated that the statement to the Trust and Rule 7 response were prepared with a lawyer who did not have his interests at heart, and they should not bear any weight in these proceedings. The Tribunal noted that Mr Grajn maintained that the findings made by the Australian regulatory authority should not stand, contending that he did not hold a licence to practise in Australia at the relevant time. He further asserted that those findings had no bearing on his clinical performance or on his fitness to practise in the United Kingdom.
34. After Mr Grajn's submissions on impairment, the Legally Qualified Chair questioned him further regarding his insight and what, if anything, he had learned from the events leading to these proceedings.

35. The Tribunal noted Mr Grajn's response, '*this is not a matter of insight. This is a matter of jurisdiction and legislation and Code of General Medical Practice is very clear. I have now repeat this for six time that it is finding against my registration*' which largely repeated the position he had already set out in his written and oral evidence. He stated that he had been treated unfairly by the Australian authorities and maintained that their findings were irrelevant to his current practice in the United Kingdom. Mr Grajn focused on procedural issues rather than on his own responsibilities or the potential impact of his behaviour on public confidence in the profession.
36. The Tribunal concluded that Mr Grajn demonstrated limited insight into the seriousness of the findings and the importance of maintaining professional standards across all jurisdictions. His responses suggested a failure to appreciate the broader aspects and responsibilities of being registered as a doctor outwith his clinical abilities and commitment (which were not in question here).
37. The Tribunal looked for evidence of any meaningful remediation that would satisfy the Tribunal and would mitigate the risk of repetition. The Tribunal acknowledged that Mr Grajn has undertaken certain remediation activities since the events in question. In particular, he provided evidence that he had completed a number of relevant professional development courses, including modules addressing professional ethics and rebuilding trust in the doctor–patient relationship.
38. While the Tribunal accepted that these courses were completed successfully and represented a degree of positive engagement, it considered that they did not go to the heart of the issues identified in *this* hearing. A number of courses that have been undertaken target the original concerns that arose from findings from the Australian determination, as opposed to the issue of disclosing an overseas determination to either the GMC or any employer.
39. The Tribunal also noted, and has seen evidence, that Mr Grajn has declared regulatory proceedings when required to do so.
40. This development suggested that Mr Grajn has made some progress in understanding his professional obligations, the Tribunal considered this to be a positive step towards remediation.

41. However, while this greater openness was acknowledged, the Tribunal concluded that it did not fully address the underlying concerns regarding insight and acceptance of responsibility.
42. The Tribunal noted Mr Grajn's response when he was asked what advice he would give to a junior doctor who found himself in a similar position. Mr Grajn stated that he would advise such a doctor "*to speak with his defence organisation for advice, and if proceedings before the GMC arise, to find a lawyer who deals in criminal practice to provide vigorous, aggressive pushback.*"
43. The Tribunal considered that this response did not demonstrate meaningful reflection or an appreciation of the importance of accountability when facing regulatory scrutiny. It suggested that Mr Grajn's focus remained on challenging the process, rather than on understanding and learning from the underlying conduct, in particular omissions when making an application for employment at the Trust and subsequent failure to inform the Trust and the GMC of an adverse determination, that gave rise to the proceedings.
44. The Tribunal noted that Mr Grajn's emphasis at the impairment stage was on his clinical skill and commitment to his chosen field of transplant surgery. He also told the Tribunal that he had not repeated his conduct with respect to professional boundaries in the six years he had worked in the UK. In that respect, he submitted to the Tribunal that there was no risk of repetition of the unprofessional conduct found by the Australian regulator. The Tribunal determined that he had failed to recognise that a doctor's duties extend beyond clinical skill, encompassing acting with openness and integrity, and adherence to the professional standards expected by the public and the profession.
45. In the Tribunal's view, this indicated a continuing lack of insight into the broader responsibilities of medical practitioners, and reinforced its conclusion that Mr Grajn has not yet achieved full remediation and thus there remains a risk of repetition of conduct such as this.
46. The Tribunal did acknowledge the testimonials provided on behalf of Mr Grajn, which described him as a conscientious and capable clinician. The Tribunal accepted that

there were no concerns regarding his clinical competence or the quality of care he provides to patients while practising in the UK.

47. However, while these testimonials spoke positively of his abilities and character in the workplace, the Tribunal considered that they did not address the concerns regarding his lack of insight and failure to fully accept responsibility for the events that led to these proceedings.
48. The Tribunal applied the framework set out in *Grant* (set out at paragraph 7) and was guided by the overarching objective to protect the public, maintain public confidence in the profession, and uphold proper professional standards and conduct. Taking all the factors above, the Tribunal concluded that limbs b and c of the test in *Grant* were met in this case, both in respect of past conduct and also on the basis of '*being liable in the future*', and therefore there was a risk of repetition.
49. The Tribunal found that the second and third limbs of the GMC's overarching objective were clearly engaged in this case. The public would be justifiably concerned if impairment was not found in a case which a doctor failed to disclose a serious overseas disciplinary matter to the regulator. Such conduct has the potential to undermine public confidence in the medical profession and to breach the standards of integrity and openness expected of all registered practitioners.
50. Accordingly, the Tribunal determined that a finding of impairment was necessary in order to uphold proper professional standards and conduct for the profession as a whole, and to send a clear message that such behaviour is wholly unacceptable.

#### Determination on Sanction - 15/10/2025

1. Having determined that Mr Grajn's fitness to practise is impaired by reason of determination by an overseas body and 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

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

#### Submissions

3. On behalf of the GMC, Ms Goring reminded the Tribunal that the main reason for imposing a sanction is to uphold the statutory overarching objective. She referred the Tribunal to the Sanctions Guidance (February 2024 edition) ('the SG') throughout her submissions.
4. Ms Goring submitted that the most appropriate sanction in this case is to erase Mr Grajn from the Medical Register. Ms Goring took the Tribunal through the sanctions available. She submitted that taking no action would not be appropriate, and that conditions would be wholly inappropriate and disproportionate in light of the findings on impairment.
5. Turning to suspension, she referred the Tribunal to paragraph 97e

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

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

6. She submitted that there has been a significant passage of time in this case since Mr Grajn received the Australian determination and since he received notification from the GMC that they were going to conduct an investigation. Ms Goring submitted that Mr Grajn has undertaken some remediation courses, but the Tribunal have found that the specific remediation courses he has undertaken do not address the specific misconduct within this case, namely failing to inform his regulator and his employer about the Australian determination.
7. She submitted that given Mr Grajn's oral submissions throughout this hearing, there is little chance of remediation being successful and whether or not Mr Grajn would engage in any meaningful remediation into this specific misconduct, which is bolstered by the fact that he no longer wishes to engage in these proceedings.
8. Turning to paragraph 76 g of the SG:

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

9. She submitted that the Tribunal has found that Mr Grajn has not demonstrated insight and there remains a risk of repetition. She submitted that with all the evidence along with the Tribunal's finding of impairment, a period of suspension is not the appropriate, proportionate or workable sanction in this matter.

10. Turning to the question of sanction she referred the Tribunal to paragraphs 107 and 108 of the SG:

*107 The tribunal may erase a doctor from the medical register in any case – except one that relates solely to the doctor's health and/or knowledge of English – where this is the only means of protecting the public.*

*108 Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.*

11. She submitted both paragraphs are engaged in this matter, that erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown 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.
12. Given the Tribunal's findings at the impairment stage, she submitted that this is a case which falls squarely within one in which erasure is appropriate, by virtue of Mr Grajn's failure to inform the GMC and his employer.
13. She referred the Tribunal to paragraph 109 of the SG:

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

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

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

*c.....*

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

14. She submitted that paragraphs a and b are engaged as there has been deliberate or reckless disregard to those principles set out in GMP virtue of Mr Grajn's failure to inform the GMC and his employer.

15. Ms Goring submitted that paragraph 109 d may be engaged on the basis of the findings of the Australian determination.
16. Ms Goring invited the Tribunal to consider the basis on which that determination in Australia was made, but without reopening the facts of that determination. She submitted that it involved an abuse of position or trust on behalf of the doctor. She further submitted that Mr Grajn's case has been that there was a passage of time between the surgery and the relationship starting with the patient in question. However, that was not the finding of the Australian tribunal.
17. With regards to aggravating features she submitted that there is the lack of remorse shown by Mr Grain. He has withdrawn the Rule 7 responses submitted on his behalf and there is no current remorse shown. Further she submitted that the failure to inform both the GMC and his employer persisted for a significant period of time, approximately 6 months and involved two distinct organisations.
18. She submitted that Mr Grajn has engaged so far as an unrepresented doctor. He has many testimonials along with the evidence of Mr C, who spoke very highly of his clinical practice and how well regarded he was within the team, however she reminded the Tribunal that limited weight can be placed on these as this is not a clinical case.
19. In all the circumstances, she submitted that the appropriate sanction here has to be erasure, and that should be imposed in order to uphold and maintain the principles set out in the overarching objective.

#### The Relevant Legal Principles

20. The decision as to the appropriate sanction, if any, to impose in this case is a matter for the Tribunal exercising its own judgement. In reaching its decision the Tribunal should take into account any mitigating and aggravating features in the case and consider these in conjunction with the SG and the statutory overarching objective.
21. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and that sanctions are not imposed to punish or discipline doctors, even though they may have a punitive effect. In making its determination the Tribunal should consider the least restrictive sanction first, before moving on to consider the other available sanctions in ascending order. Throughout its deliberations, the Tribunal should apply the principle of proportionality, balancing Mr Grajn's interests with the public interest.

#### The Tribunal's Determination on Sanction

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

Aggravating factors

23. The Tribunal considered the following to be aggravating factors:

- Mr Grajn had demonstrated limited insight or remediation into the matters before this Tribunal.

Mitigating factors

24. The Tribunal considered the following to be mitigating factors:

- Mr Grajn has engaged with the proceedings at the facts stage.

25. The Tribunal did take into account the testimonials provided on behalf of Mr Grajn; however, it determined that these did not materially mitigate the substance of the allegations. Accordingly, the Tribunal afforded them limited weight. Whilst the Tribunal noted that the many of the CPD courses did not go to these allegations, there were some that did.

No action

26. In reaching its decision as to the appropriate sanction, if any, to impose in Mr Grajn's case, the Tribunal first considered whether to conclude the case by taking no action. Taking into account the nature of the concerns in this case, and that there were no exceptional circumstances to justify taking no action, the Tribunal determined that taking no action would not be proportionate in terms of public confidence in the profession and declaring and upholding proper standards.

Conditions

27. The Tribunal took into account the following paragraphs of the SG:

*'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.'*

28. Given the Tribunal's findings in respect of Mr Grajn's limited insight and remediation, it was of the view that conditions would not be appropriate or workable.
29. The Tribunal also considered that conditions would not be sufficient to mark the gravity of its findings of Mr Grajn's misconduct in failing to notify the GMC and his employer of a determination in a timely manner. The Tribunal therefore concluded that an order of conditions would not be appropriate, workable or proportionate, nor would it be in the public interest.

#### Suspension

30. The Tribunal next considered imposing a period of suspension on Mr Grajn's registration. It had regard to the following paragraphs 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).*

*93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or*

*incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions.*

*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.*

*...*

*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.'*

31. In reaching its determination, the Tribunal carefully considered the SG, the submissions from Ms Goring and the aggravating and mitigating factors in this case. The Tribunal bore in mind the need to act proportionately and to impose the least restrictive sanction necessary to uphold the public interest. It concluded that that Mr Grajn's conduct, while serious, did not reach the threshold of being fundamentally incompatible with continued registration, and erasure would therefore be a disproportionate response.
32. The Tribunal had already determined that Mr Grajn's misconduct was serious, and it breached GMP. Specifically, the Tribunal rejected the GMC's submission relating to there being little chance of successful remediation or a willingness to engage. It considers that, whilst currently limited, Mr Grajn has the capacity to remediate and noted his engagement in the process to date. He was entitled to reject the factual allegations and dispute his impaired fitness.
33. With respect to his insight, the Tribunal has already found this is limited with respect to these allegations; however, the Tribunal considers Mr Grajn has the capacity to develop further if he chooses. Whilst the lack of insight has persisted to these proceedings, it noted the evidence from Mr C in which he stated he was aware from colleagues that Mr Grajn had indicated to them that he should have acted differently. The Tribunal reminded itself that whilst currently it considers there to be a risk of repetition, it does not consider this risk to be significant.

34. The Tribunal also acknowledged that, aside from the matters currently before it, there has been no evidence of any further misconduct on the part of Mr Grajn. The Tribunal further took into account that Mr Grajn is now forth coming about the overseas determination and declares these matters as evidenced in a recent application form.
35. The Tribunal considered the sanction of erasure. It was not persuaded that Mr Grajn's conduct was so difficult to remediate as to render it impossible. It did not consider that his failure in this case was reckless and noted his submission at the earlier stage that he considered the GMC were already aware of proceedings.
36. Having considered all of the circumstances, the Tribunal determined that a period of suspension would appropriately reflect the seriousness of Mr Grajn's misconduct and maintain public confidence in the profession. The Tribunal also determined that suspension would send a clear message to the medical profession that such conduct is wholly unacceptable. Furthermore, the Tribunal was satisfied that a period of suspension would serve to demonstrate to the profession the extent to which this behaviour had fallen below the standards expected of a registered doctor.
37. Having decided that the appropriate sanction was one of suspension, the Tribunal went on to consider the length of suspension. The Tribunal determined that imposing a period of 12-month suspension was appropriate and proportionate. It was satisfied that a period of this length marked the seriousness of Mr Grajn's departure from GMP and the extent to which that would be viewed in terms of public confidence in the medical profession. In terms of steps subsequently taken by Mr Grajn, the Tribunal noted that he had undertaken some remedial steps in terms of courses, which currently fell short of sufficient. It also noted that he has been reluctant to apologise and take full responsibility for his actions of failing to be open and inform the GMC and his employer of an overseas determination. Furthermore a 12-month suspension would give Mr Grajn adequate time and opportunity to complete his journey of insight and remediation and show evidence of such to a review hearing to enable him, in due course, to return to practise unrestricted.

### Review Hearing

38. The Tribunal determined to direct a review of Mr Grajn'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 Mr Grajn to demonstrate how he has addressed any concerns identified. It therefore may assist the reviewing Tribunal if Mr Grajn could provide:
  - Any further evidence of insight, reflection and remediation, such as the completion of CPD in relevant and targeted courses to the concerns raised of failing to disclose the determination to his employer and his regulator;
  - Written reflections to demonstrate further development of insight and his learning;

- Testimonials in support of Mr Grajn's insight and understanding of his role of a registered professional.

39. Mr Grajn will also be able to provide any other information that he considers will assist.

#### Determination on Immediate Order - 15/10/2025

1. Having determined that Mr Grajn's registration be suspended, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Mr Grajn's registration should be subject to an immediate order.

#### Submissions

2. On behalf of the GMC, Ms Goring referred the Tribunal to relevant sections of the SG concerning immediate orders. She submitted that an immediate order was necessary and appropriate in the circumstances of the case. Ms Goring submitted an immediate order is appropriate in these circumstances to protect public confidence in the medical profession.

#### The Tribunal's Determination

3. The Tribunal has taken account of the relevant paragraphs of the Sanctions Guidance (February 2024) ('SG'), in particular paragraphs 172, 173 and 178 as set out below:

**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.*

**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.

4. Based on the concerns raised in this case, the Tribunal was satisfied that an immediate order was necessary and would be in the public interest. The Tribunal also concluded that public confidence in the profession would be undermined if there were not an immediate order.
5. This means that Dr Grajn'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.
6. The current interim order is revoked.
7. That concludes this case.