

**PUBLIC RECORD****Dates:** 08/12/2025 - 12/12/2025**Doctor:** Dr Vivek VATIKUTTI**GMC reference number:** 5187449**Primary medical qualification:** MB BS 1995 Manipal Academy

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

**Summary of outcome**

Suspension, 9 months.  
Review hearing directed  
Immediate order imposed

**Tribunal:**

Legally Qualified Chair	Louise Sweet
Registrant Tribunal Member:	Dr Tony Gu
Registrant Tribunal Member:	Dr Nicola Kemp

Tribunal Clerk:	Keely Crabtree (08/12/2025 – 10/12/2025) Ciara Fogarty (11/12/2025 – 12/12/2025)
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**Attendance and Representation:**

Doctor:	Present, not represented
GMC Representative:	Rosalind Emsley-Smith, 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 - 09/12/2025

1. At the outset of this hearing, the Tribunal announced that the entirety of the hearing should be heard in private in accordance with Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (the Rules) XXX.

### Background

2. Dr Vivek Vatikutti qualified in 1995 with a Bachelor of Medicine and Bachelor of Surgery (MBBS) from Manipal Academy, India. At the time of the events, Dr Vatikutti was practising as a Surgical registrar at Warrington and Halton Teaching Hospitals NHS Foundation Trust.

3. The allegations that have led to Dr Vatikutti's hearing relate to misconduct XXX.

### Misconduct

4. It is alleged by the GMC that on 22 September 2023, Dr Vatikutti attended a shift as Surgical Registrar whilst under the influence of alcohol.

5. The initial concerns were raised after Dr Vatikutti tested positive for alcohol at work. Alcohol was smelt on Dr Vatikutti's breath on the morning of Friday, 22 September 2023, during a surgical handover. A complaint was then made to the Executive Medical Director of Warrington and Halton Hospitals NHS Foundation Trust on 22 September 2023. The GMC referral followed a "Maintaining High Professional Standards" investigation by Warrington and Halton Teaching Hospitals NHS Foundation Trust.

6. Dr Vivek Vatikutti was excluded from clinical duties on Friday 22 September 2023, XXX.

XXX

7. XXX

8. XXX

9. XXX

### The Outcome of Applications made during the Facts Stage

10. The Tribunal considered whether it was necessary for Dr Kemp, registrant Tribunal member to recuse herself. It determined that she did not. The Tribunal's determination can be found at Annex A.

11. The Tribunal granted the GMC's application, made pursuant to Rule 17(6) of the Rules to amend the Allegation. Dr Vatikutti did not object to the application. XXX. The Tribunal was satisfied that it would cause no injustice to amend the Allegation.

### The Allegation and the Doctor's Response

12. The Allegation made against Dr Vatikutti is as follows:

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

#### Misconduct

1. On 22 September 2023 you attended a shift as Surgical Registrar at Warrington and Halton Hospitals NHS Foundation Trust whilst under the influence of alcohol. **To be determined**

XXX

2. XXX

3. XXX

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

a. misconduct in respect of paragraphs 1; **To be determined**

XXX

### The Admitted Facts

13. At the outset of these proceedings Dr Vatikutti made admissions to some paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs of the Allegation as admitted and found proved.

### Witness Evidence

14. The Tribunal received evidence on behalf of the GMC in the form of a witness statement dated 5 June 2025 from Dr C, Consultant General and Colorectal Surgeon at Warrington and Halton Hospitals NHS Foundation Trust, who was not called to give oral evidence.

15. Dr Vatikutti gave oral evidence at the hearing but did not provide a witness statement.

XXX

16. XXX

17. XXX

18. XXX

### Documentary Evidence

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

- a) Dr C's transcript of interview with Warrington & Halton Teaching Hospitals NHS Trust;
- b) Referral to the GMC with Trust Investigation Report & Appendices dated 27 March 2025;

XXX

### The Tribunal's Approach

20. In reaching its decision on the facts, the Tribunal will apply the civil standard of proof. This means that the Tribunal must decide whether, on the balance of probabilities, the GMC is able to prove it is more likely than not that the matters occurred as alleged. The burden of proof rests with the GMC and it is for the GMC to prove the case that it is presenting against the doctor. There is no burden on the doctor to prove or disprove anything.

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

#### Paragraph 1 of the Allegation

21. The Tribunal approached fact finding by firstly identifying agreed facts and evidence. It considered what conclusions and inferences can be drawn from the documentary evidence. The Tribunal then considered the available oral evidence.

22. The Tribunal noted that it was agreed by Dr Vatikutti that he may have smelt of alcohol at the handover. He had voluntarily submitted to a blood test at 12:30pm. The results of the blood test were not in dispute. He was found to have blood alcohol level of 48 mg/dl. He was asked to leave work and return home.

23. Dr Vatikutti accepted that he had been drinking alcohol but maintained that this was the night before his shift. He explained the circumstances when he gave oral evidence at the hearing. Dr Vatikutti's said that in September 2023 junior doctors were on strike but he was not and had been asked to undertake additional clinical duties. Dr Vatikutti said that on Thursday 21 September 2023 he worked his shift, attended a handover and then went home. He said that by the end of that shift he had been feeling exhausted, especially as there were no junior doctors working. On his way home, he bought a Chinese take-away and after arriving home he began to drink vodka from approximately 8.30pm or 9pm and said he went to bed before midnight.

24. Dr Vatikutti said that the following day he awoke at about 7.15am, had a shower but had no time for breakfast. He had walked to work. He attended the ward handover at 8am. He completed the handover and went with the consultant to the post-admission ward round. Dr Vatikutti said that one of his colleagues reported smelling alcohol on his breath.

25. The Tribunal reminded itself of the blood test results and their interpretations

*"blood alcohol level of 48 mg/dl."*

26. XXX

27. In his oral evidence Dr Vatikutti said that he only ever drank alcohol in the evenings and never drank in the morning. XXX. Dr Vatikutti accepted that his blood alcohol level of 48 mg/dl reading demonstrated that he must have drunk up to two thirds of a 750 ml bottle of vodka at 40% alcohol by volume, between approximately 8:30pm and midnight.

28. Dr Vatikutti said that when he attended work on 23 September 2023, he did not believe that he was under the influence of alcohol or that his performance was impacted. He accepted that he would not have been safe to drive but '*felt ok, and no one complained*'. However, he accepted that his blood alcohol level showed that he had been under the influence of alcohol at work. He said on the day he had thought that it was safe for him to go to work. On reflection he felt guilty and was very sorry that he had gone to work.

29. The Tribunal noted that Dr Vatikutti relied on the fact that nothing clinical had gone wrong during his shift. The Tribunal was of the view that it was not relevant that nothing had gone wrong with his clinical care. The Tribunal inferred that anyone drinking two thirds of a bottle of vodka the night before was still going to have alcohol in their system. It was of the view that having such a high blood alcohol level reading at 12:22pm showed that he must have been under the influence of alcohol when he attended his shift at 8am. Dr Vatikutti was inevitably still going to be under the influence of alcohol at the time of testing to have produced such a high alcohol reading. Accordingly, the Tribunal found paragraph 1 of the Allegation determined and found proved.

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

30. The Tribunal has determined the facts as follows:

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

#### Misconduct

1. On 22 September 2023 you attended a shift as Surgical Registrar at Warrington and Halton Hospitals NHS Foundation Trust whilst under the influence of alcohol. **Determined and found proved**

XXX

2. XXX

3. XXX

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

- a. misconduct in respect of paragraphs 1; **To be determined**

XXX

### **Determination on Impairment - 10/12/2025**

31. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Vatikutti's fitness to practise is impaired by reason of misconduct XXX.

### **The evidence**

32. The Tribunal has reviewed its findings of fact and did not receive any further evidence at this stage.

### **Submissions**

#### Submissions on behalf of the GMC

33. Ms Emsley- Smith, Counsel, said that there is no burden or standard of proof at this stage of the fitness to practise hearing. The Tribunal will decide whether the Dr Vatikutti's fitness to practise is currently impaired by reference to the facts it has found proved and those facts that Dr Vatikutti has admitted. She said that the question of impairment was a matter for the Tribunal's own judgment, having considered all of the relevant features in the case. Ms Emsley- Smith said the path by which the GMC assert that impairment is found in this case is XXX misconduct XXX.

34. Ms Emsley- Smith reminded the Tribunal of the two-stage process at this stage of the proceedings: Firstly, whether the facts as found proved amounted to misconduct which is serious in nature and secondly, whether the finding of that misconduct could lead to a finding of current impairment. She reminded the Tribunal that in *Nandi v GMC* [2004] EWHC 2317 (Admin), serious '*misconduct*' had been described as "*conduct which would be regarded as deplorable by fellow practitioners*". Ms Emsley- Smith submitted that attending a shift as a surgical registrar while under the influence of alcohol, notwithstanding that the alcohol was consumed the night before, was evidently misconduct, which could rightly be described as

serious. Furthermore, she submitted, Dr Vatikutti during the course of his oral evidence acknowledged that given the amount of vodka he had consumed, he would not have driven a car. It should have been obvious to him that he should not have attended work under the influence of alcohol.

35. In relation to the question of impairment, Ms Emsley- Smith referred the Tribunal to the approach set out by Dame Janet Smith in the Fifth Shipman Report, as referred to in the case of *CHRE v NMC & Grant [2011] EWHC 927 (Admin)*, in which she set out a series of four questions which may indicate whether or not impairment is indicated:

*"Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

- a. *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. *has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

36. Ms Emsley- Smith submitted that Dr Vatikutti had certainly brought the profession into disrepute as a consequence of attending his shift at work while under the influence of alcohol. She submitted that Dr Vatikutti had also potentially placed patients at risk, although it is not the GMC's case that any actual harm was occasioned as a consequence of the misconduct but there was plainly a risk. Ms Emsley-Smith submitted that Dr Vatikutti had breached a fundamental tenet of the profession.

37. XXX, Ms Emsley- Smith said that XXX. She submitted that Dr Vatikutti had downplayed the amount of alcohol he had consumed during the initial investigation into the incident and during his oral evidence at this hearing. Furthermore, she submitted that Dr Vatikutti had downplayed the potential impact of the alcohol on his performance.

38. Ms Emsley- Smith submitted that attending work for a shift whilst under the influence of alcohol was so serious that a finding of impairment is required on that basis alone, irrespective of whether there is any future risk, premised on the basis that it would be required to send out a message. She submitted the finding was necessary for the protection

of the reputation of the profession and to communicate the standards expected of doctors, both to fellow professionals and to the public that such conduct was serious.

39. XXX

40. XXX

Submissions on behalf of Dr Vatikutti

41. Dr Vatikutti said that he had been working in the NHS for the last 10 years. He said there had been no complaint from any patient, other consultants or his manager about his work and therefore there was no question of patient safety.

42. In response to the GMC's submissions that whilst there was no actual risk to patient safety, there was the possibility of it. Dr Vatikutti said that "*there was always risks in life, he just does his job and gets out*"

43. As to remediation, Dr Vatikutti said that he had got in touch with the Medical Defence Unit (MDU), who had told him that he would have to show the GMC that he was doing some work. XXX

44. XXX

45. XXX

46. Dr Vatikutti said that he had been living in India for the last three to four months XXX. He said that he did not want to return to England right now because of XXX, although he may come to England during the summer months, XXX. Dr Vatikutti said that if he did return to England, he would only want to take locum positions.

47. Dr Vatikutti confirmed that he was not doing any clinical work in India at the moment.

**The relevant legal principles**

48. The Tribunal reminded itself that there is no burden or standard of proof at this stage of the proceedings and the decision of impairment is a matter for the Tribunal's judgment alone. The Tribunal will only make a finding of impairment where there is a legal basis for doing so and where a decision is reached that the doctor poses a current and ongoing risk to one or more of the three parts of public protection which is likely to require restrictive action

in response. The three parts of public protection are to protect, promote and maintain the health, safety and well-being of the public; to promote and maintain public confidence in the profession; and to promote and maintain proper professional standards and conduct for members of the profession.

49. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: firstly, whether the facts as found proved amounted to misconduct (the nature of which was serious) and secondly, whether the finding of that misconduct which was serious, poses a current and ongoing risk to public protection requiring restrictive action in response and therefore could lead to a finding of impairment.

50. To assess whether Dr Vatikutti poses any current and ongoing risk to public protection which may require restrictive action in response, the Tribunal will consider where on the spectrum of seriousness the allegation lies, based on the facts it has already found proved, the impact of any relevant context known about Dr Vatikutti and his working environment and how Dr Vatikutti has responded to the allegations.

51. As the allegations fall under more than one ground for impairment, an assessment of current and ongoing risk to public protection must be made in respect of each of them.

### The Tribunal's determination on impairment

#### **Misconduct**

52. The Tribunal had already found Dr Vatikutti was under the influence of alcohol when he attended his shift at 8am. The reading of 48 mg/dl at 12.22pm was still very high. It represented him drinking approximately two thirds of a 750ml bottle of vodka between 9pm and midnight the night before his shift. He said he had skipped breakfast as he was late for work. His high consumption of alcohol had the potential to seriously affect his clinical performance, created a real risk to patient safety and adversely affect public confidence in him and the wider medical profession. Dr Vatikutti accepted that he would not have been safe to drive but remained of the view that he was safe to be at work.

53. The Tribunal concluded that the public would be appalled at Dr Vatikutti's conduct and public confidence in the profession would be adversely affected by his actions. The Tribunal was of the view that patients need to know that a doctor is fit to be at work so as to make considered and appropriate judgements about their clinical care. Patients need to feel safe. No member of the public would be confident in Dr Vatikutti's clinical performance when under the influence of alcohol. His misconduct was readily described as serious.

XXX

54. Dr Vatikutti explained he drank the night before his shift as he was stressed and tired due the heavier work load he had faced when other junior doctors were on strike and he was not. The Tribunal was of the view that XXX he put patients at risk and risked patient confidence in the profession.

55. The Tribunal was of the view doctors should XXX and recognise when they may not be fit for work and may risk patient safety. The Tribunal was of the view that Dr Vatikutti's failure to do so was serious misconduct.

56. The Tribunal considered that all three limbs of the overarching objective are engaged in respect of Dr Vatikutti's misconduct XXX.

57. The Tribunal was of the view that Dr Vatikutti's conduct taken as a whole showed a reckless disregard for patient safety and he ought to have known that his behaviour risked causing harm to patients and should have taken steps to prevent this. The Tribunal determined that his misconduct had breached a fundamental tenet of Good Medical Practice (GMP). The Tribunal therefore concluded that Dr Vatikutti's actions amounted to misconduct and that that misconduct was very serious.

58. XXX

59. The Tribunal had regard to the notes of Dr Vatikutti's Investigation Meeting on 4 December 2023 with the Trust. Dr Vatikutti said '*It is just a stupid thing I have done*' and '*I feel so stupid; it was one mistake*'. The Tribunal also noted that during his oral evidence Dr Vatikutti said he was very sorry. However, it was unclear to the Tribunal what Dr Vatikutti was apologising for, given his apparent lack of insight into his misconduct.

60. The Tribunal noted, when asked about his misconduct having the potential to risk to patient safety, Dr Vatikutti said '*there was always risks in life*'. The Tribunal concluded that Dr Vatikutti's had very little insight into how his misconduct raised patient safety issues.

61. The Tribunal took account of Dr Vatikutti's submissions and the steps he has taken to remediate XXX. However, in the absence of sufficiently detailed information about XXX, the Tribunal is not able to assess the effectiveness of the steps taken by Dr Vatikutti. The Tribunal also noted that Dr Vatikutti stated that XXX, rather than recognising that XXX and wanting to do something constructive to help himself and to remediate is misconduct.

62. XXX

63. The Tribunal was not satisfied that Dr Vatikutti has remediated his misconduct XXX. His lack of adequate insight and insufficient remediation led the Tribunal to the conclusion that there remains a high risk of repetition of the misconduct XXX. This risk poses a potential risk to patient safety XXX. There was no evidence before the Tribunal that Dr Vatikutti has kept up to date with his Continuing Professional Development (CPD).

64. The Tribunal acknowledged there was no evidence of harm to patients. The Tribunal also noted that Dr Vatikutti had no adverse fitness to practise history. However, it determined that the fact that Dr Vatikutti has failed to adequately address his misconduct XXX and there remained serious public safety concerns.

65. The Tribunal considered that a member of the public, aware of all the circumstances in this case, namely, a doctor who went to work under the influence of alcohol XXX, would be very concerned and public confidence would be inevitably be undermined if a finding of impairment was not made.

66. The Tribunal concluded that a finding of impaired fitness to practise was required to protect, promote and maintain the health, safety and well-being of the public, and to promote and maintain public confidence in the profession.

67. The Tribunal has therefore determined that Dr Vatikutti's fitness to practise is impaired by reason of misconduct XXX.

#### Determination on Sanction - 11/12/2025

#### The Evidence

68. The Tribunal has reviewed its findings at the facts and impairment stages and taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

#### Submissions

69. On behalf of the GMC, Ms Emsley-Smith reminded the Tribunal that the decision as to the appropriate sanction was one for the Tribunal's own independent judgement. She

referred the Tribunal to the Guidance for Medical Practitioner Tribunal (MPT) hearings (the Guidance), section three which give guidance as to what action is deemed necessary to protect the public.

70. Ms Emsley-Smith referred the Tribunal to paragraphs 3 and 4 of the Guidance which is a reminder of the three-limb definition of public protection used in hearings and a summary of the sanctions available to the Tribunal. Ms Emsley-Smith said that the Tribunal will have to determine the level of current and ongoing risk to one or more of the three parts of the public protection posed by Dr Vatikutti, that being either low, medium or high.

71. Ms Emsley-Smith said that paragraph 10 of the Guidance was a reminder to the Tribunal of the need for proportionality, which in effect means that it must do no more than is necessary to meet the statutory aim of protecting the public. She said the Guidance also reminds the Tribunal of the case law, that the need to protect the public always outweighs the interests of any individual medical professional and while restrictive action is not put in place to punish or discipline any doctor, a sanction may have a punitive effect.

72. Ms Emsley-Smith submitted that there are no exceptional circumstances which would warrant taking no action in this case (paragraph 13 guidance).

73. With regard to conditions (paragraphs 17 to 40 guidance), Ms Emsley-Smith submitted that as a consequence of the findings of this Tribunal at stage two, there was insufficient insight in this case to make conditions truly workable.

74. Ms Emsley-Smith submitted that a period of suspension was the appropriate sanction in this case (paragraph 45 guidance) and would be the appropriate outcome where conditions are not currently workable.

75. Ms Emsley-Smith referred the Tribunal to paragraph 62 of the Guidance which provides assistance in determining the appropriate sanction dependent upon the risk categorisation.

76. Ms Emsley-Smith reminded the Tribunal of its determination at stage two. It found that Dr Vatikutti's high consumption of alcohol had the potential to seriously affect his clinical performance, created a real risk to patient safety and adversely affected public confidence in him and the wider profession. It also found that the public would be appalled at Dr Vatikutti's actions.

77. XXX, the Tribunal noted XXX. It found that XXX was wholly inappropriate and would undermine the protection of the public and that all three limbs of the overarching objective were engaged. It also found that there had been a reckless disregard for patient safety, a lack of insight by Dr Vatikutti and that there was a high risk of repetition. Ms Emsley-Smith submitted that these findings at stage 2 indicates a higher level of risk to the public. She referred the Tribunal to paragraph 62 of the Guidance (the table) which indicates that suspension is the appropriate sanction where there is a higher level of risk.

78. Ms Emsley-Smith confirmed that because XXX, the GMC's submission that a period of suspension was the appropriate sanction XXX. She did not suggest a time period and said it was a matter for the Tribunals judgement.

79. Dr Vatikutti said that he felt that a sanction of suspension was unfair because of his long-standing career in the NHS. He stated that he had spent ten years working for the NHS. He asked the Tribunal to take into account that there had been no previous complaints about him. Dr Vatikutti submitted that conditions would be the appropriate sanction in his case. He stated that he would cooperate with conditions and he would like to have a mentor to assist him whilst he was working with conditions.

### **The Outcome of Applications Made during the Sanction Stage**

80. On Day 4 of the hearing, following an adjournment part-way through Dr Vatikutti's submissions on sanction, Dr Vatikutti absented himself and did not return to the proceedings. The Tribunal was satisfied that all reasonable efforts had been made to contact him and to secure his attendance. Having considered the relevant legal principles, the Tribunal granted the GMC's application to proceed in Dr Vatikutti's absence, noting that it was fair and in the overall public interest to do so.

81. The Tribunal's full decision on this issue is set out at Annex B.

### **The Tribunal's Approach**

82. The Tribunal reminded itself that the decision as to the appropriate sanction, if any, to impose was a matter for its independent judgement.

83. The Tribunal considered the Guidance, and in particular Section 3, Part C "Stage Three – Sanction".

84. The Tribunal also reminded itself that, in determining whether or not to impose a sanction, it should have regard to the principle of proportionality. It also bore in mind that the reputation of the medical profession as a whole is more important than the interests of an individual doctor. The Tribunal was mindful that the purpose of a sanction is not to be punitive, albeit that a sanction may have a punitive effect on a doctor.

#### The Tribunal's Determination on Sanction

85. The Tribunal reminded itself that, in determining whether to impose a sanction and, if so which, it should have regard to the principle of proportionality and should start by considering the least restrictive option. In had regard to paragraph 7 set out in the 'Introduction' section of the Guidance for MPTS Guidance which states:

##### ***'Being proportionate'***

*7. To be proportionate, a tribunal must ask themselves, in the context of the individual case and decision being made, what is required and no more than necessary to meet the GMC and MPTS' legal duty to protect the public in a timely way. To assess what is proportionate, tribunals should be clear on the options available to them.'*

86. Throughout its deliberations, the Tribunal had regard to the statutory overarching objective to protect patients set out in section 1 of the Medical Act 1983:

- a. to protect, promote and maintain the health, safety, and wellbeing of the public
- b. to maintain public confidence in the profession
- c. to promote and maintain proper professional standards and conduct for members of the profession

87. XXX

88. The Tribunal noted Dr Vatikutti's serious misconduct, attending work as a surgeon, whilst under the influence of alcohol, XXX.

#### No Action

89. The Tribunal first considered whether to conclude the case by taking no action. It considered paragraphs 13 – 16 of Section 3 of the MPTS Guidance which relate to consideration of 'Taking no action'. It noted in particular paragraph 13 states:

*'Where a doctor's fitness to practise is impaired, it will usually be necessary for the MPT to restrict the doctor's registration to achieve public protection. But there may be exceptional circumstances to justify an MPT taking no action. Exceptional circumstances are unusual, special, or uncommon, so such cases are likely to be very rare.'*

90. The Tribunal determined that there are no exceptional circumstances in this case which would warrant the taking of no action in the context of the facts found proved in the Tribunal's determination on impairment. It considered that the taking of no action would not be sufficient, proportionate or in the public interest.

91. In this case, the Tribunal has found that Dr Vatikutti attended for duty as a surgical registrar whilst under the influence of alcohol XXX. The Tribunal has further found that Dr Vatikutti continues to present a high risk of repetition, particularly given his limited insight and his minimisation of the potential seriousness of his misconduct.

92. Accordingly, the Tribunal determined that no action would not protect the public and would be incompatible with the overarching objective.

### Conditions

93. In considering conditions of practice, the Tribunal took into account the submissions made by both parties.

94. The Tribunal had regard to the relevant sections of the MPTS Guidance in relation to sanction.

95. The Tribunal had regard to paragraphs 17 – 40 of the MPTS Guidance. In particular, paragraphs 23, 28 and 30 state:

*'23. Conditions are likely to be workable where:*

*a. the doctor has shown insight*

- b. *time is needed for the doctor to take steps to address the findings (remediate), for example through retraining, study, supervision and/or seeking medical treatment*
- c. *the doctor is willing to remediate, and*
- d. *the MPT is satisfied the doctor will comply with them.*

28 *Conditions may be proportionate in cases where the doctor has shown a degree of insight into the allegation and some, or all, of the following factors are present:*

- a. *the doctor has demonstrated they are willing and/or able to remediate*
- b. *identifiable areas of the doctor's practice need prohibiting, monitoring, or retraining*
- c. *the doctor has demonstrated they are willing to be open and honest with patients and others they work with if things go wrong*
- d. *the doctor will not put patients at harm, either directly or indirectly, by having conditions on their registration.*

30. *Conditions are unlikely to be a proportionate response in cases where the nature of the allegations about the doctor's behaviour fall at the higher end of the spectrum of seriousness and/or suggest an underlying problem with their attitude.'*

96. The Tribunal carefully considered the requirements set out in the Guidance, including that conditions must be **workable, measurable, and proportionate**.

97. XXX

98. Whilst the Tribunal accepted that XXX. At the hearing it was evident that Dr Vatikutti does not accept that XXX, nor does he accept the risks posed by his attendance at work whilst under the influence of alcohol.

99. XXX

100. Given these factors, the Tribunal determined that imposing conditions would not be sufficient to protect the public, nor would it uphold public confidence or proper professional standards. Conditions were therefore deemed inappropriate.

## Suspension

101. The Tribunal then considered whether suspension is the appropriate sanction in this case.

102. The Tribunal had regard to paragraphs 41 – 54 of the MPTS Guidance. These paragraphs deal with when suspension might be considered the appropriate sanction. In particular, the Tribunal noted paragraphs 44 and 45 state:

*'44 Restrictive action of suspension is intended to address the level of current and ongoing risk to public protection and is not intended to be punitive. However, as it prevents a doctor from working and earning a living within that profession, it can have this effect. Suspension can also have a deterrent effect and be used to send a signal to the individual doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor.'*

*45 Suspension may be proportionate in cases where some, or all, of the following factors are present:*

- a. conditions are not appropriate, measurable and/or workable*
- b. the level of current and ongoing risk to public protection is such that it cannot be safely managed with conditions and suspension is necessary to stop the doctor from working and putting patients at risk while they gain insight into any deficiencies and remediate, or undergo medical treatment, and/or*
- c. the level of current and ongoing risk to public protection is such that, although patient safety is not an issue, suspension is needed to maintain public confidence in the profession and/or maintain professional standards.'*

103. The Tribunal noted that attending a hospital shift whilst under the influence of alcohol constituted **very serious misconduct**, demonstrating a reckless disregard for patient safety. The Tribunal also noted that Dr Vatikutti has, to date, shown **very little insight** into the risks his behaviour posed to patients, colleagues and the reputation of the profession. His evidence and submissions during the hearing reflected a continuing failure to appreciate why attending work after consuming substantial quantities of alcohol the night before a shift was wholly unacceptable. The alcohol reading of 48mg/dl was very high and represented significant intoxication.

104. The Tribunal nevertheless accepted that this was a **single incident** of misconduct in an otherwise lengthy medical career. The Tribunal accepted that Dr Vatikutti has provided 10

years of clinical service to the NHS and worked through industrial action strikes, there was no previous adverse history with his regulator. XXX. As has already been stated, patients must be able to trust doctors to be fit to attend work so as to make considered and appropriate judgements about their clinical care. Patients need to feel safe.

105. Given the seriousness of the misconduct, the continuing high risk to public protection and the need to uphold public confidence, the Tribunal determined that **a period of suspension is necessary.**

#### Erasure

106. For completeness, the Tribunal considered whether erasure was required. Although the misconduct was serious, the Tribunal determined that erasure would be disproportionate, having regard to XXX and Dr Vatikutti's potential for remediation. The Tribunal was satisfied that the public can be protected and professional standards upheld through a period of suspension.

107. Having regard to its findings set out above, and given the circumstances of this case, the Tribunal determined that suspension is the appropriate sanction in this case taking into account XXX the serious misconduct XXX.

#### Length of suspension

108. In determining the length of suspension the Tribunal had regard to paragraphs 46 of the MPTS Guidance which states,

*'46. The MPT will need to decide the appropriate length of time that suspension should be put in place for, up to the maximum of 12 months. The following factors will be relevant:*

- a. the assessment of the level of current and ongoing risk to public protection posed by the doctor 15 Section 35D(2)(b) of the Medical Act 1983 (as amended)*
- b. the reasons for assessing suspension as being the proportionate response*
- c. the amount of time the doctor is likely to need to remediate, XXX, and/or*
- d. the amount of time the parties will reasonably need to prepare for any review of whether the doctor continues to pose a current and ongoing risk to*

*public protection requiring restrictive action in response or is safe to return to unrestricted practice.'*

109. In determining the length of the suspension, the Tribunal considered that a short period of suspension would not adequately mark the gravity of the misconduct nor send a message that such serious misconduct would not be tolerated. The Tribunal were of the view that Dr Vatikutti needed sufficient time to develop meaningful insight and remediate XXX his misconduct XXX. The Tribunal considered that a lengthier period of suspension would be appropriate for these reasons.

110. The Tribunal concluded that a period of suspension for **nine months** was the appropriate and proportionate response. This period reflects the seriousness of Dr Vatikutti's misconduct, the fact that he currently demonstrates little insight into his misconduct XXX means there is significant work required for him to demonstrate that he can safely return to practice.

111. In the Tribunal's judgement, given all the circumstances in this case, the appropriate sanction is a period of nine months suspension with a review.

#### Review

112. The Tribunal had regard to paragraphs 52 of the MPTS Guidance which states:

*'52. The question of whether the doctor can safely return to unrestricted practice will need to be considered before a period of suspension concludes and so a review should be directed. The exception to this is where a short suspension (usually three months or less) has been imposed on public confidence grounds and/or to maintain professional standards.'*

113. The Tribunal has determined to direct a review of Dr Vatikutti's case XXX. 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 Vatikutti to demonstrate further evidence of his insight and remediation.

Determination on Immediate Order - 12/12/2025

114. Having determined that Dr Vatikutti's registration should be suspended for a period of nine 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 of suspension.

### Submissions

115. Ms Emsley-Smith referred the Tribunal to the relevant Parts of Section 3 of the MPTS Guidance. She submitted that an immediate order is necessary in this case given the Tribunal's findings about risk to public protection. XXX.

### The Tribunal's Determination

116. Pursuant to section 38(1) of the 1983 Act, on giving a direction for suspension, the Tribunal may impose an immediate order (suspension in this case) if it considers it necessary for the protection of members of the public or is otherwise in the public interest.

117. The Tribunal had regard to the relevant paragraphs of the MPTS Guidance, including:

*'83 The decision whether to impose an immediate order is at the discretion of the MPT based on the facts of the case. When deciding if an immediate order is needed the MPT should consider the seriousness of the proved allegation and the level of current and ongoing risk to public protection posed by the doctor.*

*84 It will not usually be appropriate for a doctor to hold unrestricted registration until a sanction takes effect in cases where:*

- a. the doctor poses a risk to patient safety*
- b. the risk to one or more parts of public protection is high, and/or*
- c. immediate action is needed to maintain public confidence in the medical profession.'*

118. The Tribunal considered its findings at previous stages in relation to Dr Vatikutti's misconduct XXX. It assessed the level of current and ongoing risk of XXX and therefore a repetition of his misconduct as a result of XXX is high and engages all three limbs of the overarching objective and of public protection.

119. The Tribunal considered that an immediate order is necessary in this case in order to properly protect, promote and maintain the health, safety and wellbeing of the public. The

Tribunal considered that the only way to manage the current and ongoing risk is to impose an immediate order.

120. This means that Dr Vatikutti's registration will be suspended from the date on which notification of this decision is deemed to have been served upon him: section 38(5) of the 1983 Act (and see paragraph 86 of the MPTS Guidance, Section 3). The substantive direction, as already announced, will take effect 28 days from that date, unless Dr Vatikutti lodges an appeal in the interim. If Dr Vatikutti lodges an appeal, the immediate order will remain in force until the appeal has concluded.

121. The interim order is revoked.

122. That concludes the case.

ANNEX A – 09/12/2025

### Consideration of Recusal

123. At the outset of the hearing, the medical Tribunal member, Dr Nicola Kemp, disclosed that Dr D, Executive Medical Director at Warrington and Halton Teaching Hospitals NHS Foundation Trust, had been a personal friend since 2018. Dr D was part of the referral process to the GMC in this case. Dr Kemp confirmed that she had not discussed this case with Dr D.

124. On behalf of the GMC, Ms Rosalind Emsley-Smith, Counsel, said that given the limited role played by Dr D in this case, there was no issue from the GMC's perspective in Dr Kemp continuing as a member of this Tribunal.

125. Dr Vatikutti said that he was content for Dr Kemp to remain part of this Tribunal on his case.

### The Tribunal's Decision

126. When considering the issue of recusal, the Tribunal has reminded itself of the principles that a Tribunal must be impartial, and that justice should not only be done but should be seen to be done. The Tribunal had regard to the test set out in *Porter v Magill* [2001] UKHL 67 and asked itself whether the circumstances in this case would lead a fair-minded and informed observer to conclude that there was a real possibility of either actual or apparent bias.

127. No party had suggested there was any reason for Dr Kemp to be biased. The Tribunal was of the view that both subjectively and objectively there was no evidence to suggest that Dr Kemp could not carry out her role impartially. There had been no discussion of the case between Dr Kemp and Dr D and the personal friendship does not give rise to actual bias or the perception of bias in the circumstances of this case and taking into account Dr D limited role in it. The Tribunal determined that there was no reason for Dr Kemp to recuse herself.

ANNEX B – 11/12/2025

### Application to proceed in absence

128. Parts of this hearing were heard in private in accordance with Rule 41 of the Rules. This determination will be handed down in private due to the confidential nature of matters heard as evidence. However, as this case concerns Dr Vatikutti's misconduct, a redacted version will be published at the close of the hearing.

129. On Day 4 of the hearing, the hearing was due to commence virtually at 9:30am. Dr Vatikutti did not sign in to the hearing link. MPTS Staff attempted to contact Dr Vatikutti by email (used successfully during in the course of the hearing) at 9:38am asking him to sign in. The email was not answered. The Tribunal decided to delay the start time for an hour to allow further contact attempts. GMC staff attempted further telephone calls, which were also not answered.

130. Dr Vatikutti had been present on the previous three days of the hearing. He had been present when the Tribunal informed him that the hearing, Day 4, would resume at 09:30am the next day. No information was received from Dr Vatikutti to indicate that he was experiencing any difficulty, required additional time or sought a further adjournment. The hearing resumed at 12pm. The GMC made an application to proceed to deal with the remainder of the hearing in Dr Vatikutti's absence.

#### Submissions

131. On behalf of the GMC, Ms Emsley-Smith submitted he had proper notice of the hearing and that there was no indication that waiting any longer would result in Dr Vatikutti re-engaging with the proceedings. She invited the Tribunal to proceed in his absence.

#### The Tribunals Approach

132. The Tribunal was advised that it must first satisfy itself that all reasonable efforts have been made to ensure that Dr Vatikutti is aware of the hearing and of the requirement for him to attend at 09:30am. The Tribunal was advised that the onus rests upon the doctor to keep his methods of communication up to date.

133. The Tribunal was further advised that it must balance any potential unfairness caused to Dr Vatikutti by proceeding in his absence against the wider public interest, which includes the efficient disposal of the case. In conducting that balancing exercise, the Tribunal may take into account the stage the proceedings have reached, whether the doctor has already made the submissions he wished to make and whether he would in fact be likely to make any further submissions were he present and engaging with the hearing.

134. XXX

### **The Tribunal's Determination**

135. XXX

136. The Tribunal acknowledged that proceeding in his absence may deprive Dr Vatikutti of the opportunity to complete any submissions on sanction that he had thought of overnight. The Tribunal was of the view that any more submissions were unlikely to be of substantial difference to those already made. The Tribunal was of the view Dr Vatikutti had had ample opportunity to inform the GMC or the Tribunal if he was experiencing difficulty and had not do so. There was no evidence to suggest he had difficulties but instead had voluntarily absented himself from today's proceedings.

137. Having balanced fairness to Dr Vatikutti with fairness to the GMC and the wider public interest, the Tribunal determined that it was fair and appropriate to proceed in his absence.