PUBLIC RECORD

Dates: 06/05/2025 - 13/05/2025

Doctor:	Dr Samuel JOHNSON
GMC reference number:	7427078
Primary medical qualification:	MB BS 2013 University College London

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

Summary of outcome

Suspension, 12 months.
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Graham White
Lay Tribunal Member:	Mr Andrew Waite
Registrant Tribunal Member:	Dr Joanne Topping

Tribunal Clerk:	Ms Keely Crabtree

Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Mr Ben Rich, Counsel, instructed by MDDUS
GMC Representative:	Mr Carlo Breen, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 09/05/2025

FACTS

1. The Tribunal agreed, in accordance with Rule 41 of the General Medical Council (GMC) (Fitness to Practise Rules) 2004 as amended ('the Rules'), that parts of this hearing should be heard in private where the matters under consideration involve XXX and in relation to other details of his personal circumstances which outweigh the public interest in holding the hearing in public. As such, this determination will be read in private but a redacted version will be published following the conclusion of this hearing, with those matters relating to Dr Johnson's XXX personal circumstances removed.

Background

2. Dr Johnson qualified in 2013 with a Bachelor of Medicine, Bachelor of Surgery Degree (MB BS) from University College London. He achieved a Postgraduate Diploma in the History of Medicine from the Worshipful Society of Apothecaries (DHMSA) in 2011, and a Postgraduate Certificate in Education for Medical Professionals (PGCME), awarded with merit from the University of Warwick in 2023.

3. Dr Johnson has been registered with the General Medical Council (GMC) since 2014 and obtained Membership of the Royal College of Psychiatrists in 2018. He is approved under section 12(2) of the Mental Health Act (1993 as amended) and is registered as an Approved Clinician with the section 12 approvals panel.

4. At the time of the events in question Dr Johnson was practising as a Specialist Trainee 5 (ST5) in forensic psychiatry, based at South London and Maudsley NHS Trust, Bethlem Royal Hospital (River House).

5. Dr Johnson is currently employed by Birmingham and Solihull NHS Foundation Trust as a Consultant Forensic Psychiatrist.

6. The allegation that has led to Dr Johnson's hearing can be summarised as follows. Dr Johnson had been present at a seclusion review of a patient undertaken by Dr A. On 14 November 2022, Dr Johnson set up an email address in the name of Dr A in order to create a log in profile on Portfolio Online in Dr A's name. The following day, he submitted a false workplace-based assessment (WPBA) relating to the patient they had seen together, giving the impression that it had been completed by Dr A which it had not, and that Dr Johnson had led the Assessment which he had not.

7. It is also alleged that Dr Johnson subsequently contacted Portfolio Online impersonating Dr A and sought to remove the email address from the WPBA in an attempt to prevent detection of his actions, knowing that Dr A was not connected to the email address that Dr Johnson had created and had not completed the WPBA. It is also alleged that the day after these events Dr Johnson produced a reflective document that he knew contained false information.

8. It is further alleged that Dr Johnson's actions as above were dishonest.

9. Dr Johnson referred himself to the GMC on 6 February 2023.

The Outcome of Applications Made during the Facts Stage

10. The Tribunal determined to amend typographical errors at paragraphs 2(a), 2(b)(i), 2(c)(i) and 6(e) of the Allegation, made pursuant to Rule 17(6) of the Rules. Mr Carlo Breen, on behalf of the GMC and Mr Ben Rich on behalf of Dr Johnson did not object to the amendments. The Tribunal was satisfied that it would cause no injustice to amend the Allegation.

The Allegation and the Doctor's Response

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

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

1. On or before 15 November 2022, you created the email address at Schedule One ('the Email Address'). **Admitted and found proved**

2. On 15 November 2022 you:

a. used the Email Address to create a login profile on Portfolio Online in ~~Mr~~ Dr A's name; **Admitted and found proved**

b. submitted a false workplace-based assessment ('WPBA') on Portfolio Online, concerning a patient assessment on 24 October 2022 ('the Assessment'), in that:

i. you completed the WPBA to give the false impression that it had been completed by ~~Mr~~ Dr A; **Admitted and found proved**

ii. it gave the false impression that you had led the Assessment; **Admitted and found proved**

c. telephoned Portfolio Online and:

i. impersonated ~~Mr~~ Dr A; **Admitted and found proved**

ii. sought to remove the Email Address from the WBPA; **Admitted and found proved**

d. told Dr B, words to the effect that, you had contacted Portfolio Online to ask if the WPBA could be taken down from Portfolio Online; **Admitted and found proved**

e. emailed Dr C stating that, 'you had contacted Portfolio Online and asked them if the WBPA could be taken down from Portfolio Online'. **Admitted and found proved**

3. Your action at paragraph 2c was an attempt to prevent detection of your actions as set out at paragraphs 1, 2a and 2b. **Admitted and found proved**

4. On or around 16 November 2022, you prepared a document entitled 'Reflection – WPBA' in which you said:

a. 'ironically, I focussed the ticket on a genuine supervised assessment I had undertaken'; **Admitted and found proved**

b. 'I immediately called portfolio and requested the form to be taken down'. **Admitted and found proved**

5. You knew:

a. Dr A had:

i. no knowledge and/or was not connected to the:

i. Email Address **Admitted and found proved**

ii. online profile created in his name linked to the Email Address; **Admitted and found proved**

ii. not completed the WPBA; **Admitted and found proved**

iii. led the Assessment; **Admitted and found proved**

b. during a phone call with Portfolio Online you:

i. were not Dr A and/or Dr A had no knowledge of your contact with Portfolio Online on his behalf; **Admitted and found proved**

ii. had not asked Portfolio Online to remove the WPBA you had submitted; **Admitted and found proved**

6. Your action(s) set out at paragraph:

a. 2a was dishonest by reason of paragraph 5ai;
Admitted and found proved

b. 2bi was dishonest by reason of paragraph 5aii;
Admitted and found proved

c. 2bii was dishonest by reason of paragraph 5aiii;
Admitted and found proved

d. 2ci was dishonest by reason of paragraph 5bi;
Admitted and found proved

e. 2c (ii) was dishonest by reason of paragraph 3;
Admitted and found proved

f. 2d was dishonest by reason of paragraph 5bii;
Admitted and found proved

g. 2e was dishonest by reason of paragraph 5bii;
Admitted and found proved

h. 4a were dishonest by reason of paragraph 5aiii;
Admitted and found proved

i. 4b were dishonest by reason of paragraph 5bii
Admitted and found proved

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

The Admitted Facts

12. At the outset of these proceedings, through his counsel, Mr Rich, Dr Johnson admitted the entirety of the factual Allegation, as set out above, in accordance with Rule

17(2)(d) of the Rules. In accordance with Rule 17(2)(e), the Tribunal announced all the paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

13. On the basis that Dr Johnson admitted to the factual Allegation in its entirety, the Tribunal moved straight to stage 2 of the proceedings in order to consider the issues of misconduct and impairment.

IMPAIRMENT

14. 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 above, Dr Johnson's fitness to practise is impaired by reason of misconduct.

Witness Evidence

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

- Dr A, Consultant Forensic Psychiatrist at South London and Maudsley NHS Foundation Trust ('the Trust');
- Dr B, Consultant Forensic Psychiatrist at the Trust, who was Dr Johnson's clinical supervisor;
- Dr C, Dr Johnson's Educational Supervisor and Training Programme Director;
- Mr D, Managing Director of XXX.org and lead developer of Portfolio Online.

16. Dr Johnson provided his own witness statement dated 31 March 2025, and a supplemental statement dated 4 May 2025. He also gave oral evidence at the hearing.

Documentary Evidence

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

- WhatsApp messages exchanged between Dr A and Dr Johnson dated 15 November 2022;
- Dr Johnson's Workplace Based Assessment form and screenshots of assessment entries dated 24 October 2022;
- Printout of Portfolio Online 'manage email' section;
- Email from Dr A to Online Portfolio dated 26 January 2023;

- Dr Johnson's reflective document sent to Dr B on 16 November 2022;
- Report prepared by Mr D dated 17 February 2023;
- Email exchanges between Mr D and the GMC dated 15 December 2023 to 2 February 2024;
- IP data and log extracts (collated by Mr D);
- Email exchange between Dr A and Online Portfolio dated 26 January 2023;
- Curriculum Vitae of Dr Johnson
- Email exchanges between Dr Johnson and Dr C dated 15 November 2022 to 16 November 2022;
- Audio file of recorded telephone call from Dr Johnson to Online Portfolio dated 15 November 2022;
- Audio file of recorded telephone conversation between Dr A and Online Portfolio;
- Email exchange between Dr B and Dr Johnson dated 15 and 16 November 2022;
- Emails from Dr A to Dr B dated 15 November 2022 and 26 January 2023;
- Emails from Dr C to Dr A dated 15 to 16 November 2022;
- Dr Johnson's CPD;
- Dr Johnson's reflections on the various CPD courses he had undertaken;
- XXX;
- Testimonials on behalf of Dr Johnson;
- Dr Johnson's appraisal and multi-source feedback (2017 to 2023 and 2024 to 2025);
- Dr Johnson's thank you cards from patients;
- Dr Johnson's Excellence nominations.

Submissions on behalf of the GMC

18. On behalf of the GMC, Mr Breen reminded the Tribunal that it should follow a two-stage process when considering the issue of impairment. Firstly, it must consider whether Dr Johnson's conduct has amounted to misconduct and, if so, whether his fitness to practise is impaired as a result. He reminded the Tribunal that the decision on misconduct and impairment was a matter for its own independent judgment.

19. Mr Breen submitted that misconduct was conceded by Dr Johnson, as was his impaired fitness to practise.

20. Mr Breen referred the Tribunal to *General Medical Council v. Meadow [2006] EWCA Civ 1390,* and the Courts approved approach to identify "serious professional misconduct", which was taken in the earlier case of *Roylance v. General Medical Council [2001] AC 311*. Mr Breen stated that the Court held that the circumstances giving rise to a finding of misconduct

must be linked to the practice of medicine by the Doctor or be conduct which otherwise brings the profession into disrepute and must be serious.

21. Mr Breen submitted that these criteria were clearly satisfied. Furthermore, he stated that the Courts have upheld the concept that for there to be a finding of misconduct, there should be behaviour which is serious because it was said in *Nandi v. General Medical Council [2004] EWHC*, it would be regarded as deplorable by fellow practitioners. Mr Breen submitted that the cumulative conduct of Dr Johnson was clearly deplorable.

22. Mr Breen referred the Tribunal to *Remedy UK Limited v. GMC [2010] EWHC 1245, Calhaem v. GMC [2007] EWHC 2606, Cheatle v. General Medical Council [2009] EWHC 645* and *CRHE v NMC & Grant 2011 EWHC 297 Admin.*

23. Mr Breen also referred the Tribunal to the principles set out in Good medical practice (GMP). He submitted that Dr Johnson's repeated and concealed dishonesty had clearly breached these principles.

24. Mr Breen submitted that Dr Johnson had committed repeated acts of dishonesty, albeit over a short period of time. In particular, Dr Johnson:

- Created a false email address;
- Used the email address to create a log in profile in Dr A's name;
- Submitted a false workplace based assessment;
- Completed the assessment to give the false impression that it had been completed by Dr A;
- Completed the assessment giving the false impression that he had led the assessment;
- Impersonated Dr A;
- Sought to remove the email address from the system;
- Was dishonest in the reflective document prepared by him, which commences at page 21 as reflected in Charge 4.

25. Mr Breen submitted that these actions amounted to repeated, calculated, dishonesty with an attempt to conceal the dishonesty.

26. Mr Breen stated that insofar as remediation was concerned, it was the GMC's submission that bearing in mind the level and nature of Dr Johnson's dishonesty, such dishonesty cannot be remediated. He submitted that in this context, it was important for the Tribunal to re-read Dr Johnson's initial reflective statement which was prepared immediately

after he admitted his dishonesty. Mr Breen stated that despite Dr Johnson's admissions at the material time, he had continued to be dishonest in this reflective document.

27. Mr Breen stated that this was relevant to the Tribunal's consideration of remediation. He submitted that the dishonesty, including the narratives inserted by Dr Johnson within the WPBA written by him was so serious that the conduct wholly undermines the overarching objective, the principles of GMP, and the relationship of trust.

28. Mr Breen submitted that there remained a risk of repetition. He submitted that Dr Johnson's evidence on his "coping mechanisms" and/or any "plans" that he has in place to prevent this form of behaviour being repeated was unclear.

29. With regard to insight, Mr Breen stated that it was clear from Dr Johnson's reflective document that he did not develop 'timely insight' immediately. Whilst the evidence given by Dr Johnson was to the effect that he has clearly developed full insight, Mr Breen submitted that question marks remained as to whether this was genuinely the case.

30. Mr Breen submitted that for the reasons he had set out, Dr Johnson's fitness to practise is impaired.

Submissions on behalf of Dr Johnson

31. On behalf of the Dr Johnson, Mr Rich said that Dr Johnson has indicated that he:

a. Accepts that the conduct which he has admitted falls short of that expected of a registered doctor, and that it is sufficiently serious to cross the threshold for misconduct.

b. Further he accepts that as of the date of this hearing, the conduct impairs his fitness to practise.

32. Mr Rich submitted that Dr Johnson was currently no risk to any patient, or anyone else, but conceded that impairment of his fitness to practise could properly be found on the basis of public confidence and the need to declare and uphold the standards of the profession.

33. Mr Rich stated that his submissions deal with Dr Johnson's remediation, insight and the risk of repetition. He submitted that when these are assessed the Tribunal could be assured that no such conduct would occur again.

34. Mr Rich submitted that this case never concerned any direct or immediate clinical risk to patients. He stated that Dr Johnson had been a committed and effective trainee, regarded as hardworking, above average and dedicated to his patients. It was not realistically suggested that, even if the deception had been persisted with, Dr Johnson would have been a risk to patients on the basis that he had not completed one of the 60 similar assessments that go to make up his five-years of specialist training.

35. Mr Rich submitted that the issue in this case was the importance of the integrity of the assessment system (and thus was indirectly connected with clinical standards), and the requirement of high standards of honesty in doctors to foster public confidence in the profession, and the confidence of Dr Johnson's direct colleagues and patients.

36. Mr Rich stated that Dr Johnson had admitted that what he did was a '*huge error of judgement*' and a '*terrible thing to do'* and has expressed his deep remorse and shame.

37. Mr Rich submitted that the dishonesty had its origins on the evening of the 14 November 2022 when Dr Johnson created the email address in Dr A's name and produced the false WPBA after XXX about the possibility he would need to extend his training period. Mr Rich said that Dr Johnson had initially changed his mind and had decided not to submit it. Then, after XXX the following morning, he submitted it at 12.32 pm on 15 November 2022.

38. Mr Rich referred the fact that around seven minutes later, Dr Johnson called Portfolio Online pretending to be Dr A and asked them to delete the new email address. Mr Rich said that Dr Johnson had intended to ask for the WPBA to be removed but accepts that he did not ask for this. The call handler offered to integrate the email into Dr A's genuine account and Dr Johnson seemed to be swept along by the suggestion and agreed with it.

39. Mr Rich stated that less than an hour after that call, Dr Johnson texted Dr A to ask to speak to him. It was in the subsequent contact that Dr Johnson admitted to Dr A what he had done.

40. Mr Rich said that Dr Johnson accepted that in a reflection written the following morning at around 10am he was not fully frank about exactly what had happened. Although he has admitted the allegations relating to that reflection, he did within it make substantial admissions to the forgery. Mr Rich submitted that since that period of a little over 36 hours, Dr Johnson had been frank and honest about what he did and has made considerable efforts to make sure that he will never repeat the misconduct.

41. Mr Rich stated that Dr Johnson was aware that he would be referred to the GMC, but when he found out he had not been, he self-referred on 6 February 2023.

42. Mr Rich stated that Dr Johnson had made comprehensive and targeted efforts to rehabilitate himself. He has also analysed the causes of his dishonest conduct identifying the combination of stressful circumstances he was struggling with XXX.

43. Mr Rich stated that Dr Johnson had reflected on what it was in his background that inclined him to take that path rather than a better one, in particular his inability to admit that he was not coping with a problem.

44. Mr Rich stated that as a result of these reflections Dr Johnson has taken steps to change his ways of thinking and XXX. These measures included:

- XXX
- Undertaking continuous Professional Development (CPD) which included small group work examining the sorts of issues that led to his misconduct.
- XXX

45. Mr Rich stated that Dr Johnson had also taken practical steps to protect himself from an inclination to take on too much work, which contributed to XXX and to the misconduct and he initially reduced his hours to 80%. Mr Rich stated that when Dr Johnson became a consultant the hours were less, and he had fewer out of hours commitments. He also reduced his medico-legal work from up to 30 hours a month to approximately 30 hours a year. Dr Johnson now does reports only for his own patients, who would suffer if he declined to do reports for them.

46. Mr Rich said XXX which reduced the financial stress XXX, and brought to an end the excessive commuting Dr Johnson had been doing prior to the dishonesty.

47. Mr Rich also referred the Tribunal to the CPD Dr Johnson had completed on professional ethics and other issues.

48. Mr Rich submitted that Dr Johnson has displayed considerable insight into the effects of his wrongdoing on patients, the psychiatric profession and in particular the assessment system, on colleagues and on the medical profession more widely.

49. Mr Rich submitted that, in his oral evidence to the Tribunal, Dr Johnson had demonstrated that he was acutely aware of having let down his colleagues, the patients and the wider medical profession.

50. Mr Rich submitted that given Dr Johnson's remediation and insight, the risk that he would be dishonest again is extremely low. Mr Rich submitted that this was not a case of dishonesty coming from an inherently dishonest person XXX. In addition to the work Dr Johnson had done to prevent a recurrence, Mr Rich said that he had been under investigation for over two years and has had to face proceedings in which he has given live oral evidence detailing his misconduct. Mr Rich stated that Dr Johnson was acutely conscious of the tremendous support he had received from his supervisors and other colleagues, both immediately after the original dishonesty and through the process of becoming a consultant. He stated that Dr Johnson knows that any repetition would inevitably spell the end of a career to which he has dedicated over a decade of training and work.

51. Mr Rich said that Dr Johnson has worked continuously since Christmas 2022 without any repetition of dishonesty. He is trusted and respected by his peers and patients. Mr Rich referred the Tribunal to the testimonials, MSF and other items in the stage 2 bundle.

52. Mr Rich stated that the Tribunal could derive further reassurance from the testimonials provided by Dr Johnson. They demonstrate his general reputation for dedication, hard work and integrity and weigh against any risk of repetition. Mr Rich submitted that a finding of impairment was not necessary for the protection of the public.

53. In regard to the question of whether confidence in the medical profession would be undermined if a finding of impairment was not made, Mr Rich stated that this question could be framed with reference to what a fair-minded member of the public, in possession of the facts, would think if impairment was not found. He submitted that the Tribunal should remind itself that the member of the public would be aware of the following matters which explain and to some extent mitigate the dishonest conduct:

- Although it comprised a number of dishonest acts, it related in essence to one issue, over a period of less than two days.
- Dr Johnson has admitted all the allegations and shown genuine contrition.
- The difficult personal and professional circumstances in which Dr Johnson found himself prior the dishonesty provide a degree of explanation and mitigation, although not a justification.
- XXX

- His genuine recognition of the harm his actions have caused both directly and indirectly.
- The fact that prior to this Dr Johnson had been a good trainee and was now a well-regarded consultant.

However, Mr Rich stated that it was accepted that these reasons are insufficient to extinguish the necessity of making a finding of impairment on public confidence grounds. Mr Rich stated that Dr Johnson leaves the decision to the Tribunal but accepted that such a determination would be entirely proper.

The Tribunal's Approach

54. The Tribunal accepted the Legally Qualified Chair's advice. The Tribunal has given careful consideration to all of the evidence that has been adduced during the course of these proceedings and to the submissions made by Mr Breen and Mr Rich.

55. The Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct and whether any misconduct found was serious and then, whether the finding of serious misconduct led to a finding of impairment.

Misconduct

56. Dealing first therefore with misconduct, this was defined in the leading case of *Roylance v GMC (no2)* [2000] 1 AC 311 as 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 practitioner in the particular circumstances. The misconduct must be serious. In the case of *Nandi v GMC* in 2004, Mr Justice Collins adopted the observation of Lord Clyde in the 1999 case of *Rylands v GMC* that professional conduct is *'a falling short by omission or commission of the standards of conduct expected among medical practitioners and such falling short must be serious'*. The adjective *"serious"* must be given its proper weight.

57. There are two principal kinds of misconduct. *(Remedy UK Ltd v GMC* [2010] EWHC 1245 (Admin). The first may involve sufficiently serious misconduct in the exercise of professional practice. The second may involve conduct of a morally culpable or otherwise disgraceful kind which may occur outside the course of professional practice itself, but which brings disgrace upon the doctor and thereby prejudices the reputation of the profession.

58. Dr Johnson would have been expected to adhere to the GMC *Good medical practice* guidance applicable at the time of the respective events in question, namely that published in 2013 with subsequent amendments.

59. By way of summary, in order to make a finding of misconduct, the Tribunal must determine that the facts found proved constitute a serious departure from the standards of conduct expected of a medical practitioner. If the Tribunal concludes that there was no misconduct on the part of Dr Johnson, his fitness to practise cannot be found impaired on that ground.

Impairment

60. The second stage involves consideration of impairment when the Tribunal must consider whether, as a consequence of any misconduct found on the part of Dr Johnson, his fitness to practise is currently impaired. The word *"impairment"* is an ordinary word in common usage and is not defined in The Medical Act.

61. There is no burden or standard of proof. It is a question of judgment by the Tribunal. Impairment may be based on historical matters or a continuing state of affairs but it is to be judged as at the present time. To do this, the Tribunal must look forward, taking account of any reparation, changes in practice, behaviour or attitude since the matters found proved actually occurred. Personal mitigation is less relevant at this stage but efforts to accept and correct remediable errors should be taken into account.

62. The Tribunal should have at the forefront of its mind the overarching objective set out in S1(A) & (B) of the Medical Act 1983. This is (a) to promote and maintain the health, safety and well-being of the public (b) to maintain public confidence in the profession and (c) to promote and maintain proper professional standards and conduct for members of the profession. It should consider that objective as a whole without giving excessive weight to any one limb.

63. In considering the issue of impairment, the Tribunal should consider Dr Johnson's misconduct in the light of all relevant factors known to it. That includes the way in which he has behaved in the past and any evidence of remediation.

64. The Tribunal should consider whether there is a need to protect individual patients and/or other professionals. It should consider whether there is a need to maintain public confidence in the medical profession as a whole and the declaring and upholding of proper standards of conduct and behaviour within that profession.

65. As stated by Mr Justice Silber in *Cohen v the GMC* in 2008, a significant consideration at the impairment stage is (i) whether the misconduct is easily remediable, (ii) whether it has been remedied and (iii) whether there is a risk of such behavior being repeated in the future. Is it highly unlikely to be repeated? Mr Justice Silber went on to say that there will be some cases which are of such gravity or nature that a Panel would be entitled to conclude that the practitioner's fitness to practice is impaired regardless of whether the shortcomings had been remedied or are not likely to be repeated. Such cases might include matters of dishonesty.

66. In the case of *Cheatle v General Medical Council 2009*, Mr Justice Cranston said that the issue is whether the misconduct, in the context of the doctor's behaviour both before the misconduct and up to the present time, is such as to mean that his or her fitness to practise is impaired. A tribunal could conclude that, looking forward, a doctor's fitness to practise is not impaired, despite that misconduct. Mr Justice Cranston went on to say, however, that the doctor's conduct may be so egregious that looking forward a tribunal is persuaded that the doctor is simply not fit to practise medicine without restrictions or maybe not at all.

67. As stated by Mrs Justice Cox in the 2011 case of *CRHE v NMC & Grant 2011 EWHC 297 Admin*, when considering whether fitness to practise is impaired, the level of insight shown by a practitioner is central to a proper determination of that issue. By reference to the Shipman Inquiry Fifth Report, questions for determining whether a practitioner's fitness to practise is impaired could be summarised as follows: Do the findings of fact in respect of the doctor show that his fitness to practice is impaired in that he/she has:

(a) 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 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 profession and/or
(d) has in the past acted dishonestly and/or is liable in the future to act dishonestly.

As part of her judgement Mrs Justice Cox also said:

> *"It is essential, when deciding whether fitness to practise is impaired by misconduct or deficient professional performance, not to lose sight of the fundamental considerations, namely the need to protect the public and the need to declare and*

uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession."

"In determining whether a practitioner's fitness to practise is impaired by reason of misconduct or deficient professional performance, the panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances".

The Tribunal's Determination on Impairment

Misconduct

68. The Tribunal first considered whether the facts found proved are a sufficiently serious departure from the standards of conduct reasonably expected of Dr Johnson as a registered medical practitioner, to amount to misconduct.

69. The Tribunal deliberated carefully on all of the evidence and the circumstances of Dr Johnson's misconduct and accepted that there was no evidence of direct harm to patients.

70. The Tribunal noted that Dr Johnson admitted at the outset of this hearing that on 14 November 2022, whilst working as a ST5 in forensic psychiatry at Bethlem Royal Hospital he needed to submit a final WPBA to complete his training scheme requirements for the year. Every trainee has an online portfolio, which is a record of their competencies and shows that they are progressing through their training.

71. Dr Johnson did not have the required WPBA and has admitted that he therefore made the decision to take on the identity of Dr A, a Consultant Forensic Psychiatrist in order to provide this assessment which would look positive, but which in reality was false. At the time of the index events, Dr A was covering for Dr Johnson's clinical supervisor Dr B.

72. Dr Johnson set up an email account in Dr A's name without his permission or knowledge and the following day he submitted a WPBA purporting to be from Dr A in respect of a patient who they had seen together. Dr A stated that the meeting with the patient was not one from which such an assessment could be made.

73. Dr Johnson admitted that he gave the false impression in the WPBA that it had been completed by Dr A, which it had not and also that he, Dr Johnson, had led the assessment

which he had not. Dr Johnson later accepted that he himself produced all of the information in the assessment from his own previous interactions with the same patient, at which Dr A had not been present.

74. Dr Johnson stated that within minutes he had second thoughts about what he had done. He admitted impersonating Dr A in a phone call to Portfolio Online on 15 November 2022 when he tried to get the email address removed. Dr Johnson accepted that he did this in an attempt to prevent his actions being detected. Dr Johnson told both Dr B and his Educational Supervisor Dr C on 15 November 2022 that he had forged the form but that he had asked Portfolio Online to take the assessment down. Dr Johnson has admitted however, that he had not in fact asked them to do so.

75. On 16 November 2022 Dr Johnson provided a reflective statement at the request of Dr B. In which he stated '*Ironically, I focussed the ticket on a genuine, supervised assessment I had undertaken, with a consultant within the service... I immediately called portfolio and requested the form be taken down…'*. Both these statements were untrue, and Dr Johnson has acknowledged that they were dishonest. This reflection was used as part of Dr Johnson's Annual Review of Competency Progression (ARCP) panel on 25 November 2022 which concluded it was happy with his progress and so he was issued with a satisfactory outcome without any adverse comments or concerns.

76. Dr Johnson conceded that his actions as set out in paragraphs 2(a), 2(b)(i), 2(b)(ii), 2(c)(i), 2(c)(ii), 2(d), 2(e), 4(a) and 4(b) of the Allegation were dishonest.

77. The Tribunal noted that Dr Johnson also accepted that his conduct falls short of that expected of a registered doctor, and that it is sufficiently serious to cross the threshold for misconduct.

78. The Tribunal had regard to Dr A's witness statement dated 5 October 2023, in which he detailed how Dr Johnson impersonating him had made him feel:

> *'I cannot remember whether he used the word "forged", but he said in essence that he had created the WPBA, put me as the assessor, completed it himself, and submitted it. I was completely shocked – out of all the things I was expecting, it was not that. I did not know what to say. I do not know why he chose to use my name for that. Due to his distress, my initial reaction was to try and be supportive on the phone and said we would figure it out. I think I was the first person he told from a professional point of view. I do not know if he told any other trainee or family member.*

…

In the phone call with Dr Johnson, he did not make it out that way. It was after my call with him, and during my discussion with [Dr B] that I realised how serious it was. As a trainee you cannot just complete a WPBA and click submit, you have to generate a ticket for a consultant to complete their part of the form. The worry I felt changed to being incredulous at the lengths to which he had gone. [Dr B] and I discussed the likelihood of the GMC being informed and we were both in absolute agreement as to what needed to happen.

…

On 19 September 2024, the GMC played me a recording of two telephone calls that were made to Portfolio Online… 19 September 2024 was the first time I had heard either of these recordings and I was asked by the GMC to confirm if either Exhibit OH9 or Exhibit OH10 were my voice. I can confirm that the recording at Exhibit OH9 is my voice.

The telephone recording at Exhibit OH10 is not my voice but is rather the voice of Dr Johnson. When I heard this recording, I was shocked. I had previously been told by the Portfolio Online Team that for the forged WBPA to be on my account Dr Johnson would have needed to contact them and pretend to be me. Despite knowing this, I was appalled to hear Dr Johnson identify himself as me, use my GMC number and in effect steal my identity in that call. It was incredibly disconcerting to hear another doctor do this…'

79. The Tribunal had regard to Dr Johnson's Reflections dated July 2023 on 'The Role of Portfolio ', as follows:

'However in considering assessment of trainees, against the need for any training programme to prove efficacy and safe practice, I came to realise that the portfolio needs to hold some form of assessment – at present, higher training in psychiatry does not have an exit examination, and I realised that in lieu of this, the portfolio stood as the principle proof of my standard of practice.

Before undertaking the PGCME I had seen the role of the portfolio as a means of testing practical skill; however it was only through my completing the course, and further reading into the means of assessing values and beliefs – ensuring they align with professional standards, such as Good Medical Practice – that I came to

appreciate their role in ensuring the values set by the GMC are enshrined in every day practice.

The ability of the Royal College of Psychiatrists to consider the safety and good practice of its members in higher training, with the autonomy it holds, comes with the social contract that its means of assessment are robust and acceptable to the public in ensuring its members meet the standards they expect of their clinicians. My actions undermined that trust in the process, and the trust placed in the Royal College by the public by extension.'

80. The Tribunal concluded that a significant factor in this case was the integrity of the assessment system. The honesty of doctors engaging with systems that have been designed to ensure doctors are competent in all areas of their speciality is vital, and thus integral to the maintenance of clinical standards.

81. The Tribunal had regard to GMP and considered that the following paragraphs were engaged in this case:

1. Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.

36. You must treat colleagues fairly and with respect.

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

66. You must always be honest about your experience, qualifications and current role.

68. You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.

71. You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.

a You must take reasonable steps to check the information is correct.
b You must not deliberately leave out relevant information.'

82. The Tribunal had regard to the context and extent of Dr Johnson's dishonesty. It concluded that Dr Johnson's dishonest actions were complex, carefully planned and carefully executed over a three-day period. Although the Tribunal acknowledged that his actions were intended to produce a single result, it required numerous acts of dishonesty to do so. This is compounded by the fact that he stole Dr A's identity in a deliberate conscious attempt to distort the record to his own advantage. The Tribunal concluded that Dr Johnson's conduct was egregious.

83. The Tribunal concluded that whilst there was some evidence that Dr Johnson had significant stresses in his life at the time, these could in no way justify or excuse his conduct.

84. The Tribunal was of the view that members of the public are entitled to place complete reliance upon a doctor's honesty. The relationship between the profession and the public is based on the expectation that medical practitioners will act at all times with integrity. Dishonesty, even where it does not result in actual harm to patients, is particularly serious because it can undermine the public's trust and confidence in the medical profession.

85. The Tribunal concluded that, taking account of all the circumstances in this case, Dr Johnson's dishonest conduct fell far below the standards expected of a doctor, was contrary to GMP and breached a fundamental tenet of the medical profession namely that of honesty and integrity. The Tribunal therefore concluded that Dr Johnson's actions amounted to misconduct and that that misconduct was serious.

Impairment

86. Having determined that the facts found proved amounted to serious misconduct, the Tribunal went on to consider whether, as a result of this, Dr Johnson's fitness to practise is currently impaired by reason of his misconduct.

87. In considering whether Dr Johnson's fitness to practise is currently impaired, the Tribunal balanced its assessment of his insight, his remediation and the risk of repetition against each limb of the statutory overarching objective, namely the health, safety and wellbeing of the public, maintaining public confidence in the profession and maintaining proper professional standards and conduct for members of the profession.

88. The Tribunal noted that Dr Johnson had undertaken targeted remediation. He had completed courses on probity and ethics (including reflections) and gained some insight into the impact of his behaviour on his colleagues and the wider profession and the potential impact of his dishonesty on the integrity of the assessment system. In addition, Dr Johnson has XXX and taken steps to address the financial and domestic problems he was facing at the time of the index events.

89. In his oral evidence at the hearing, Dr Johnson articulated in detail how he carried out his dishonest acts and explained the different stages he undertook. The Tribunal concluded that this demonstrated that his insight had grown since his initial reflections following the index events. Dr Johnson also described the impact his actions were still having to date.

90. The Tribunal noted that Dr Johnson accepted that he should have behaved differently. The Tribunal was satisfied that from shortly after the index events and throughout the Trust and GMC investigation and these hearing proceedings, there was evidence of Dr Johnson's development of insight.

91. Dr Johnson has identified work pressures as a contributing factor to the stresses he was under at the time of the index events, and has adopted processes to manage his clinical workload such as the use of a white board. However, there is conflicting evidence regarding his approach to nonclinical work. When his hours of work were decreased to 80% following the index events, rather than using this time to XXX and support the family dynamic he decided to embark on a post graduate certificate of education. In addition, despite having identified restricting medico legal report writing as a mechanism to decreasing his workload, he has expressed a desire to increase this work in his recent appraisal that was undertaken in April 2025. Therefore, the Tribunal determined that Dr Johnson's insight was not fully developed.

92. The Tribunal was satisfied that in terms of remediation, Dr Johnson has undertaken a significant amount of appropriate CPD and reflection and has further appropriate courses booked. XXX.

93. The Tribunal was satisfied that these proceedings will have had huge impact on Dr Johnson and will have acted as a future deterrent to him. However, the Tribunal concluded that there remains some risk of repetition.

94. The Tribunal noted that Dr Johnson's conduct had caused no direct harm to patients. However, the Tribunal concluded that patient safety relies not only on doctors being

appropriately trained with a robust assessment process in place but also a requirement to be open and honest.

95. The Tribunal reminded itself that whilst a finding of impairment does not necessarily follow a finding of dishonesty, it would nevertheless be an unusual case where dishonesty was not found to impair a registrant's fitness to practise. The Tribunal was mindful of its findings that Dr Johnson's actions had been deliberate and repeated. They breached a fundamental tenet of the profession and represented a significant departure from the standards expected of doctors as set out in GMP. This would have an adverse effect on the reputation of the profession.

96. The Tribunal then looked at the factors as set out in *Grant,* in the test for impairment and took into account Dr Johnson's dishonesty. It found that Dr Johnson had brought the profession into disrepute, that he had breached fundamental tenets of the profession, there had been multiple actions of dishonesty and there was still some risk of repetition. Therefore, all factors a, b, c and d in *Grant* were engaged.

97. The Tribunal was in no doubt that public confidence in the medical profession and the ability to uphold proper standards for that profession would be adversely affected if it were not to make a finding of impairment in this case.

98. The Tribunal concluded that if a medical professional falsifies any recorded interaction with a patient this may well put a patient at risk. Furthermore, acting dishonestly to gain a professional progression also creates an inherent risk. Having concluded that Dr Johnson has not achieved full insight into the factors that led to his dishonest actions, there remains a risk of repetition.

99. Accordingly, the Tribunal determined that Dr Johnson's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor, that it was necessary on grounds of public protection and the public interest to declare and uphold professional standards to make a finding of impairment.

100. The Tribunal accordingly finds Dr Johnson's fitness to practise impaired.

Determination on Sanction - 13/05/2025

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

The Evidence

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

103. The Tribunal received further evidence on behalf of Dr Johnson including in the form of a stage 3 bundle. This contained Dr Johnson's Less Than Full Time (LTFT) application dated 1 February 2023 together with confirmation of its approval. There was also a request for confirmation as to whether Dr Johnson was planning to proceed with studies for a Diploma or a Master's degree. The final document was a letter from the Clinical Director at Birmingham and Solihull Mental Health NHS Foundation Trust explaining why they wished to retain the services of Dr Johnson as a forensic psychiatrist and offering to supervise and support him if that was required.

Submissions

104. On behalf of the GMC, Mr Breen submitted that when considering all the evidence in this case together with and importantly, the Tribunal's findings at stages 1 and 2 that the only proportionate sanction is one of Erasure.

105. Mr Breen submitted that the Tribunal had made some critical findings of fact which proportionately supported the GMC's submission of Erasure, namely:

- That a significant factor in this case was the integrity of the assessment system. The Tribunal had concluded that the honesty of doctors engaging with systems designed to ensure doctors are competent in all areas of their speciality is vital, and thus integral to the maintenance of clinical standards.
- That paragraphs 1, 36, 65, 66, 68 and 71 of GMP were engaged. These constituted in Mr Breen's submission multiple breaches of the guidance.
- The Tribunal considered the context and extent of Dr Johnson's dishonesty. It had concluded that Dr Johnson's actions were complex, carefully planned and carefully executed over a three-day period.
- The Tribunal further concluded that numerous acts of dishonesty were involved and that this was compounded by the fact that Dr Johnson stole Dr A's identity in a deliberate conscious attempt to distort the record to his own advantage.

- The Tribunal concluded that Dr Johnson's conduct was egregious.
- The Tribunal concluded that members of the public are entitled to place complete reliance upon a Doctor's honesty. There is an expectation that medical practitioners will act with honesty and integrity.
- The Tribunal concluded that taking all the circumstances into account, Dr Johnson's dishonest conduct fell far below the standards expected of a doctor, was contrary to GMP and breached a fundamental tenet of the medical profession, namely that of honesty and integrity. The Tribunal concluded that the misconduct was serious.
- the Tribunal concluded that there remained some risk of repetition.

106. Mr Breen submitted that these findings were extremely serious and demonstrated a calculated intention to deceive. Dr Johnson's actions were wholly and fundamentally contrary to the overarching objective, and the principles of GMP.

107. Mr Breen submitted that Dr Johnson's conduct was fundamentally incompatible with his continued registration, particularly, when considering the promotion and maintaining of public confidence in the profession and, the promotion and maintaining of proper professional standards and conduct.

108. Mr Breen submitted that the Tribunal had not concluded that Dr Johnson has remediated. Whilst the Tribunal find that Dr Johnson had undertaken targeted remediation and a variety of courses, in the GMC's submission Dr Johnson's conduct was so serious that it could not be fully remediated.

109. Mr Breen stated that it was clear from the Tribunal's findings that Dr Johnson has not achieved full insight and that there remains a risk of repetition. Furthermore, he repeated that remediation has not been achieved.

110. Mr Breen referred the Tribunal to the relevant sections within the Sanctions Guidance (the SG).

111. With reference to paragraph 25 of the SG, Mr Breen stated that whilst there is evidence that Dr Johnson understands the problem, he clearly does not have full insight. He said that in accordance with paragraph 25(c), the Tribunal should consider the circumstances leading to the incident, which it clearly has done. It should also consider personal issues including the lapse of time involved.

112. Mr Breen stated that as set out at paragraph 32 of the SG, there are some cases, including this one, where a doctor's failings are difficult to remediate. This is because they

are so serious that despite steps subsequently taken, there remains a current and ongoing risk to public protection and action is needed to maintain public confidence.

113. Mr Breen said that the Tribunal should consider the references and testimonial evidence to support Dr Johnson as set out in paragraphs 34 to 41 of the SG. It should also consider expressions of regret and apology as indicated in paragraphs 42 to 44 of the SG.

114. Mr Breen submitted by reference to paragraph 46(c) of the SG that Dr Johnson has not demonstrated the timely development of insight.

115. Mr Breen said that the Tribunal would need to consider the conduct in Dr Johnson's personal life in the context of paragraph 56 of the SG, and in particular 56(a), relating to issues of probity.

116. Mr Breen stated that in relation to determining what sanction to impose, this was clearly not a case where no action should be taken, and similarly, it was not a conditions case.

117. In regard to suspension, Mr Breen referred the Tribunal to paragraphs 91, 92, 93 of the SG. He submitted that by reason of the findings that have been made by the Tribunal, Dr Johnson's calculated dishonesty is fundamentally incompatible with continued registration. Furthermore, it was crucial in this case that insight has not been fully developed and that there is a risk of repetition.

118. Mr Breen referred to paragraph 97, which sets out a non-exhaustive list of factors which would indicate that suspension may be appropriate. He submitted that the misconduct here was difficult to remediate. The departure from GMP as far as Dr Johnson's conduct is concerned is extremely serious. He submitted that the Tribunal had not been satisfied that Dr Johnson has full insight and in accordance with 97(g), that he does not pose a significant risk of repeating this behaviour.

119. In regard to erasure, Mr Breen referred the Tribunal to paragraphs 107, 108 and 109 of the SG. He also referred the Tribunal to paragraphs 120, 124 and 125 when considering dishonesty and paragraph 126 of the SG which deals with Dr Johnson's obligations in relation to paragraphs 69 to 71 of GMP.

120. Mr Breen said that it was clear from paragraph 128 of the SG that dishonesty if persistent and/or covered up is likely to result in erasure. He submitted that Dr Johnson's dishonesty was both persistent and covered up.

121. Mr Breen submitted that on a proportionate basis by reason of the findings made by the Tribunal, a sanction of erasure should be imposed.

122. On behalf of Dr Johnson, Mr Rich said that Dr Johnson accepted the determination of the Tribunal that his fitness to practise is impaired, and the Tribunal's finding that there is a residual risk of repetition because his insight is not fully developed. Dr Johnson also accepted that the likely outcome of the hearing would be that he would not be able to practise for at least a period, and that his entire career had been put at risk by his conduct.

123. Mr Rich said that as Dr Johnson indicated in his evidence, he was already committed to continuing his remediation through managing XXX the stressors that contributed to his misconduct, and by demonstrating a commitment to honesty and integrity. Specifically, he has committed himself to:

a. XXX

b. XXX

c. XXX

d. Working, if or when he is allowed to, to help his patients and continue the work to which he is deeply committed, but also to prove that he can practise as a reliable and honest doctor.

124. Mr Rich submitted that the primary duty on the Tribunal at this stage was to impose the minimum sanction consistent with protecting the public and upholding public confidence in the profession.

125. Mr Rich said that Dr Johnson had read, and accepted, the comments of the Tribunal about the seriousness of the conduct. While he has explained some of the background to how he came to carry out the dishonest acts, he agrees with the Tribunal and has himself consistently maintained that it cannot excuse his behaviour.

126. Mr Rich stated that the Tribunal had found that Dr Johnson's insight is not yet fully developed and that there was therefore some risk of repetition. Dr Johnson does not seek to go behind that finding. However, the Tribunal also found that his insight had grown since his initial reflections after the index events and that this development of insight has continued throughout the Trust and GMC investigations and through the hearing proceedings. It also

found that the proceedings have had a huge impact on him and will act as a significant deterrent to any future similar misconduct.

127. Mr Rich said that the Tribunal had acknowledged the range and relevance of the remediation that Dr Johnson has undertaken.

128. Mr Rich submitted that even if Dr Johnson continued practising the requirement for public protection could be met without undue risk to the public. If Dr Johnson were to be in practice again, he would have to have satisfied a Tribunal either that the residual risk of repetition had been effectively extinguished, or he would be placed under some form of supervision or monitoring that would ensure that the risk was managed.

129. Mr Rich said that although the Tribunal had found that his misconduct is not yet fully remediated, he submitted that it is remediable, and Dr Johnson has gone a considerable way to remediating it.

130. Mr Rich stated that the Tribunal was aware that Dr Johnson has analysed his misconduct and taken measures relating to XXX and family circumstances to ensure there is no repetition, has done targeted CPD addressing the misconduct and has acknowledged the seriousness of what he did, and its effect on patients, colleagues and the wider profession.

131. Mr Rich stated that the Tribunal can properly draw reassurance from the support Dr Johnson has received from his colleagues and management team at the time of the index events, his appointment to a consultant post by a Trust who were fully aware of what he had done and by period of around 2 ½ years since in which he has practised without any restriction and has repaid the confidence his employers put in him.

132. Mr Rich submitted that the Tribunal could maintain confidence in the profession, and declare and uphold its standards, without imposing the ultimate sanction of erasure. He said that a fair-minded member of the public, with a knowledge of all the circumstances including the efforts Dr Johnson has made since to remediate, could be reassured by a lesser sanction that the conduct has been taken seriously by the regulator, and that the sanction combined with what the Tribunal has described as the ”huge impact” of the proceedings on Dr Johnson will mean that both patients and the wider profession will have been protected.

133. Mr Rich referred to the following factors identified in the SG at paragraph 109 as factors which may make erasure appropriate:

‘Seriousness/difficulty in remediation’

134. Mr Rich submitted that Dr Johnson has always accepted that his conduct was serious. One way of judging difficulty in remediation lies in the assessment of whether or not Dr Johnson has remediated at all. He submitted that the Tribunal has acknowledged that he has made significant steps in remediation, albeit that they are not complete.

'Good Medical Practice'

135. Mr Rich accepted that Dr Johnson did deliberately disregard some of the principles in GMP.

'Serious harm to others'

136. Mr Rich submitted that the Tribunal had acknowledged that this is not a case about any direct harm to patients or others.

'Abuse of position of trust'

137. Mr Rich said that in a sense, any departure from GMP represents an abuse of the trust that is placed in a doctor. He submitted that this is not what is meant by this factor, and it refers to the exploitation in some direct way of the fact that patients are vulnerable and have to trust their doctors. Furthermore, he submitted that this is not a failing which is a feature of this case.

'Violation of a patient's rights, Sexual misconduct, and Violence'

138. Mr Rich submitted this these were not relevant to this case.

'Dishonesty, especially where persistent or covered up'

139. Mr Rich submitted that the persistence, and the attempt to cover up the dishonesty, all took place from the 14 to 16 November 2022, although it is accepted that the reflection which minimised the misconduct was used on 25 November 2022 in Dr Johnson's ARCP Progression. While this factor is therefore present, it has to be placed against the significant admissions Dr Johnson has made at all the stages of this matter, and the open and frank way he has dealt with this for a considerable period of time.

'Putting own interests before those of patients'

140. Mr Rich submitted that it was accepted that this is present in the sense that Dr Johnson was intending to make his training portfolio complete and that was not for the benefit of patients, but the conduct does not involve specific acts detrimental to a patient or patients which, he submitted, is the failure to which this factor is principally directed.

'Persistent lack of insight into seriousness, or consequences'

141. Mr Rich submitted that, while the Tribunal had noted that Dr Johnson's insight developed over time, and is not yet entirely complete, this does not amount to a "persistent" lack of insight and is not a failure to appreciate the consequences. The concerns the Tribunal has expressed relate to his insight into what he needed to do (in particular reducing workload to reduce the pressure on him and to concentrate on his family more) in order to ensure no risk of repetition, rather than a failure to appreciate the seriousness of what he did.

142. Mr Rich submitted that Dr Johnson's misconduct falls into the category of being "*serious*" but that it *"falls short of being fundamentally incompatible with continued registration"* (paragraph 92 of the SG).

143. Mr Rich said there had been an *"acknowledgement of fault"* and while the Tribunal had found some risk of repetition, he submitted that it would be reasonable to read the whole decision as indicating that repetition would be "*unlikely*". He stated that the Tribunal had seen *"evidence that the doctor has taken steps to remediate their actions" (*paragraph 93 of the SG).

144. With regard to the factors identified in paragraph 97 of the SG which would indicate that suspension may be appropriate Mr Rich submitted that Dr Johnson has demonstrated, in the ways outlined above, that his conduct is remediable, and he has done significant work to achieve that (paragraph 97(a) of the SG).

145. Mr Rich submitted that it is not suggested that the XXX issues in this case create any direct risk to patients or others (paragraph 97(c) of the SG.

146. Mr Rich submitted that Dr Johnson had gone a long way to demonstrate that he could succeed in remediating himself. He submitted that the Tribunal's remaining concerns are not of a type that it would be difficult or impossible for Dr Johnson to address and overcome (paragraph 97(e) of the SG).

147. Mr Rich submitted that there had been no repetition of the Misconduct (paragraph 97 (f) of the SG).

148. Mr Rich submitted that by reference to paragraph 97(g) of the SG the Tribunal has identified "*some*" risk of repetition, but not a "*significant*" risk.

149. Additionally, Mr Rich submitted that there was a legitimate public interest in allowing a safe and competent doctor to resume practice at some point if that can be done consistently with the overriding objectives. He submitted that all the evidence demonstrated that Dr Johnson was a good trainee and has been a good consultant. He has demonstrated dedication and hard work in the challenging specialism of forensic psychiatry. Mr Rich submitted that this was a case where the public value of Dr Johnson being able to bring his training and skills to bear on these troubled patients is something that can properly be given weight by the Tribunal.

150. Mr Rich submitted that taking into account all the submissions made above, and the material the Tribunal had seen in the way of mitigation, together with the evidence that Dr Johnson has offered in the proceedings, this was a case where it would be disproportionate to bring Dr Johnson's career to an end, and that some lesser sanction could satisfy the requirements of public safety and the public interest.

The Tribunal's Determination on Sanction

151. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal alone, exercising its own judgement. In reaching its decision, the Tribunal has taken GMP and the SG into account and has, at all times, borne in mind the overarching objective.

152. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and that sanctions are not intended to punish doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Johnson's interests with the public interest.

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

Aggravating Factors

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

- Although the Tribunal acknowledged that Dr Johnson's actions were intended to produce a single result, it required numerous acts of dishonesty to do so;

- Dr Johnson's dishonest actions were complex, carefully planned and carefully executed over a three-day period;
- Dr Johnson initially attempted to conceal his dishonesty;
- Dr Johnson stole Dr A's identity in a deliberate conscious attempt to distort the record to his own advantage;
- Dr Johnson continued to be dishonest in this reflective document which was used by his clinical supervisor and training programme director to determine his progression throughout his training and into his next year's training.

Mitigating Factors

155. The Tribunal considered the following to be mitigating factors in this case:

- There have been no previous adverse findings against Mr Johnson as a medical practitioner and there is no evidence of further dishonesty since the index events;
- Dr Johnson made full and frank admissions at this hearing. He admitted from the outset that he had behaved dishonestly and accepted responsibility for his actions since;
- Dr Johnson has undertaken a significant amount of appropriate CPD and reflection and has further appropriate courses booked;
- Dr Johnson was under personal stress at the time of his dishonest behaviour due to factors in his personal life;
- Dr Johnson has XXX taken steps to address the financial and domestic problems he was facing at the time of the index events;
- Dr Johnson has shown evidence of developing insight;
- Dr Johnson has provided positive testimonials from colleagues who are aware of the Allegations against him;
- Dr Johnson did bring his dishonesty to the attention of Dr A almost immediately after the index events;
- Dr Johnson referred himself to the GMC and has acknowledged the severity of what he had done.

156. The Tribunal noted paragraphs 124 and 125 of the SG which sets out factors to be considered when considering cases of dishonesty:

'124 Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust

the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.

125 Examples of dishonesty in professional practice could include:

a defrauding an employer

b falsifying or improperly amending patient records

c submitting or providing false references

d inaccurate or misleading information on a CV

e failing to take reasonable steps to make sure that statements made in formal documents are accurate.'

157. The Tribunal has taken these factors into account in considering the appropriate sanction under the SG. It considered each sanction in ascending order of severity, starting with the least restrictive.

No action

158. The Tribunal first considered whether to conclude the case by taking no action. Taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that given its findings there are no exceptional circumstances in this case and that it would not be sufficient, proportionate, or in the public interest to conclude this case by taking no action.

Conditions

159. The Tribunal next considered whether to impose conditions on Dr Johnson's registration. In so doing, it bore in mind that any conditions imposed would need to be appropriate, proportionate, workable, and measurable. In the light of its findings, the Tribunal determined that it would not be possible to formulate a set of appropriate or workable conditions which could adequately address Dr Johnson's misconduct, namely his dishonesty. In any event, the Tribunal concluded that a period of conditional registration would not be a sufficient, appropriate, or proportionate sanction to satisfy the public interest.

Suspension

160. The Tribunal next considered whether it would be appropriate and proportionate to suspend Dr Johnson's registration.

161. The Tribunal considered the SG in relation to suspension including paragraphs 91 and 92, which state:

> *'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 (i.e. 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).'*

162. The Tribunal recognised that a sanction of suspension does have a deterrent effect and can be used to send a signal to Dr Johnson, the profession, and the public about what is regarded as behaviour unbefitting a registered doctor. It also acknowledged that suspension is an appropriate response to misconduct which is sufficiently serious, and that action is required in order to maintain public confidence in the profession, but which falls short of being fundamentally incompatible with continued registration.

163. The Tribunal also had regard to paragraph 97 of the SG which sets out some of the circumstances in which suspension may be the appropriate sanction. The Tribunal considered a, e, f and g to be engaged in this case:

> *'97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*
>
> *a A serious 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 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, e.g. 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.

164. The Tribunal was in no doubt that Dr Johnson's misconduct, namely his dishonesty was sufficiently serious that action is required to maintain public confidence in the medical profession, and proper professional standards

Erasure

165. The Tribunal acknowledges that, where there has been a particularly serious departure from the principles set out in GMP and it is satisfied that a doctor's behaviour is fundamentally incompatible with his continuing to be a doctor, it should consider erasure. It notes in particular that it has found Dr Johnson's actions to be serious and complex dishonest behaviour and considered this point with great care.

166. However, the Tribunal was satisfied that Dr Johnson has readily and fully engaged in the regulatory process and that he has taken responsibility for his actions. Further, it was satisfied that Dr Johnson's apologies and expressions of remorse are wholly genuine. In addition, the Tribunal noted that Dr Johnson has made good use of the time since his misconduct and has undertaken a significant amount of appropriate CPD and reflection and has further appropriate courses booked. Dr Johnson has since developed further insight which was evident in the frank and contrite oral evidence he gave to the Tribunal at stage 2, acknowledging that his insight with reference to his workload has taken time to develop. There has been no repetition of Dr Johnson's misconduct, and the Tribunal was satisfied that any future repetition is unlikely.

167. The Tribunal noted the support Dr Johnson had received from his supervisors at the time of his dishonesty and how they had felt able to allow him to complete his training. It also noted that Dr Johnson's new employers, knowing the full circumstances of this case, were prepared to retain his services.

168. In these circumstances, the Tribunal determined that a sanction of erasure would not be proportionate.

The Tribunal's Decision

169. The Tribunal determined a period of suspension to be the appropriate and proportionate sanction to fulfil the overarching objective. It considered that a period of suspension would balance Dr Johnson's interests with the need to send a clear message that his behaviour was wholly unacceptable for a member of the medical profession and that this behaviour is unacceptable in order to uphold professional standards and public confidence.

170. In determining the length of the suspension, the Tribunal considered the aggravating factors which are considered relevant to the length of the suspension, namely the seriousness of the findings including:

- The extent to which the doctor departed from the principles of Good medical practice
- The extent to which the doctor's actions risked patient safety or public confidence
- The extent of the doctor's significant or sustained acts of dishonesty or misconduct

171. The Tribunal was satisfied that the maximum period of suspension of Dr Johnson's registration for this period will send a clear message to Dr Johnson, the profession, and the wider public that dishonesty constitutes behaviour unbefitting a registered medical practitioner and will be taken seriously. It will also give Dr Johnson adequate time to further remediate, gain full insight and complete any professional development needed in order to ensure that his medical knowledge is up to date.

172. The Tribunal therefore determined that Dr Johnson's registration should be suspended for a period of 12 months.

173. The Tribunal determined to direct a review of Dr Johnson's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Johnson to demonstrate how he has remediated and developed full insight and that he is fit to return to unrestricted practise. It therefore may assist the reviewing Tribunal if Dr Johnson provides:

- A further reflective statement to include how Dr Johnson's insight has developed into the issues that brought him to this position and how he would respond differently in the future;
- Continuing Professional Development to demonstrate that he has maintained his medical skills and knowledge;
- Dr Johnson may also provide any other information that he considers will support his case in showing that his fitness to practise is no longer impaired.

Determination on Immediate Order - 13/05/2025

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

Submissions

175. On behalf of the GMC, Mr Breen submitted that the GMC's position is that an immediate order is necessary in the circumstances of this case to protect public confidence in the profession. Mr Breen referred the Tribunal to paragraph 173 of the SG. He also reminded the Tribunal of its findings at stage 3.

176. On behalf of Dr Johnson, Mr Rich submitted that an immediate order was not necessary. He stated that Dr Johnson had been working since Christmas 2022 and the Tribunal had seen the testimonial evidence provided on his behalf.

177. Mr Rich referred the Tribunal to the case of *Ashton v General Medical Council (2013) EWHC 943 (Admin).*

178. Mr Rich reminded the Tribunal of its previous finding, which was largely based on maintain public confidence. He submitted that in those circumstances that this would be achieved by the 12-month suspension and that an immediate order was unnecessary.

The Tribunal's Determination

179. In reaching its decision, the Tribunal has exercised its own judgement and has taken account of the principle of proportionality. The Tribunal has borne in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest or is in the best interests of the practitioner. It

has also considered the guidance given in paragraphs 172, 173, and 178 of the SG relating to immediate orders:

> *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.*

180. The Tribunal also had regard to its previous determinations and the submissions made by Mr Breen and Mr Rich.

181. The Tribunal concluded that there had been serious and persistent dishonesty on the part of Dr Johnson. Whilst the Tribunal considered it unlikely that the misconduct would be repeated, it has concluded that public confidence would be undermined if an immediate order were not made. The Tribunal therefore directed an immediate order.

182. This means that Dr Johnson'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.

183. That concludes this case.