

PUBLIC RECORD**Dates:** 03/02/2025 - 11/02/2025

Doctor: Dr Trevor MILLIGAN

GMC reference number: 4431589

Primary medical qualification: MB ChB 1997 University of Leeds

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

Summary of outcome

Conditions, 18 months
Review hearing directed
Immediate order imposed

Legally Qualified Chair	Ms Joanne Shelley
Lay Tribunal Member:	Ms Hermione McEwen
Registrant Tribunal Member:	Dr Juliet Bennett

Tribunal Clerk:	Mr John Poole
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Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Mr Chis Gillespie, Counsel, instructed by Medical Protection
GMC Representative:	Mr Ciaran Rankin, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 06/02/2025

Facts

1. This determination will be handed down in private due to matters relating to XXX. However, as this case also concerns an allegation of misconduct and a criminal conviction, a redacted version will be published at the close of the hearing.

Background

2. Dr Milligan qualified in 1997 from the University of Leeds. He initially trained in paediatrics and obtained Membership of the Royal College of Paediatrics and Child Health in 2000 and a Diploma in Child Health in 2005. He subsequently completed his general practitioner (GP) training in 2007. He has practised as GP since that time save for a period of not working whilst XXX and a period following the incident set out at paragraph 1 of the Allegation. His last position was working as a GP at the South Queen Street Surgery which ended in June 2023. Dr Milligan has not worked as a doctor since June 2023, following an incident that led to his conviction for driving a vehicle whilst under the influence of alcohol.

3. The Allegation being considered by the Tribunal relates to an allegation that Dr Milligan's fitness to practise is impaired by reason of misconduct, a criminal conviction XXX.

Misconduct

4. It is alleged that on 26 August 2022 whilst conducting an afternoon clinic at the Broughton House GP Surgery ('the Practice'), Dr Milligan was under the influence of alcohol and had been drinking alcohol.

5. By way of background to this allegation, Dr Milligan in his witness statement described having had an extremely intense workload and becoming increasingly stressed and XXX properly. As a result of issues arising in relation to Dr Milligan's working practises, a meeting was held on 26 August 2022 with Dr C and Dr D (both GP Partners at the Practice)

with Dr Milligan and he was asked about the issues that had been arising. Later that afternoon, it was reported by senior members of staff that Dr Milligan had XXX. Dr C and Dr D visited Dr Milligan in his room at the Practice to find out what was going on. They reported that Dr Milligan had been on the phone to a patient and XXX. Dr Milligan XXX, and they established that he had been drinking alcohol. It was suggested that Dr Milligan should go home and there was a discussion as to how he would get home. In the intervening period, Dr C XXX and a taxi was arranged to take Dr Milligan home.

6. As a result of the concerns, Dr C advised Dr Milligan to refer himself to the GMC.

Conviction

7. On 13 December 2023 at Leeds Magistrates Court, Dr Milligan was convicted of, on 13 June 2023, driving a motor vehicle after consuming so much alcohol that the proportion of it in his blood exceeded the prescribed legal limit. Dr Milligan pleaded guilty to the offence. On the 28 February 2024, Dr Milligan was sentenced to a disqualification from driving for 23 months and a fine of £307.00.

XXX

8. XXX
9. XXX
10. XXX
11. XXX
12. XXX

The Outcome of Applications Made during the Facts Stage

13. On Day 1 of the hearing, Mr Chris Gillespie, Counsel, on behalf of Dr Milligan, made an application for the hearing to be held in private in accordance with Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). Mr Ciaran Rankin, Counsel, on behalf of the GMC, was neutral in relation to the application. The Tribunal determined that it was appropriate to grant the application that the hearing be held entirely in private. Its reasoning is provided at Annex A.

The Allegation and the Doctor's Response

14. The Allegation made against Dr Milligan is as follows:

Misconduct

1. On 26 August 2022 whilst conducting your afternoon clinic at the Broughton House GP Surgery you were:
 - a. under the influence of alcohol; **Admitted and found proved**
 - b. drinking alcohol. **Admitted and found proved**

Conviction

2. On 13 December 2023 at Leeds Magistrates Court you were convicted of on 13 June 2023 at Leeds you drove a motor vehicle, on a road, namely Ingram Road Distributor, after consuming so much alcohol that the proportion of it in your blood, namely not less than 238 milligrammes of alcohol in 100 millilitres of blood, exceeded the prescribed limit, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. **Admitted and found proved**
3. On 28 February 2024 you were sentenced to:
 - a. a disqualification from driving for 23 months; **Admitted and found proved** and
 - b. a fine of £307.00. **Admitted and found proved**

XXX

4. XXX
5. XXX
6. And that by reason of the matters set out above your fitness to practise is impaired because of your:
 - a. misconduct in respect of paragraph 1; and **To be determined**
 - b. conviction in respect of paragraphs 2 and 3; and **To be determined**
 - c. XXX

The Admitted Facts

15. At the outset of these proceedings, through his counsel, Mr Gillespie, Dr Milligan admitted to the entirety 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 and sub-paragraphs of the Allegation as admitted and found proved.

Impairment

16. 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 Milligan's fitness to practise is impaired by reason of misconduct, a criminal conviction XXX.

The Evidence

Documentary Evidence

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

- Contemporaneous notes by Dr C on 27 August 2022 regarding the incident on 26 August 2022, various screenshots relating to the work allocated to Dr Milligan, and examples of the work he carried on that day;
- The Certificate of Conviction and police report;
- XXX;
- XXX;
- XXX;
- XXX; and
- XXX.

Witness Evidence

18. XXX

19. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence as their evidence was agreed by the parties:

- Dr C, witness statement dated 13 March 2023;
- Dr D, witness statement dated 14 March 2023;
- Ms G, Operations Manager at Broughton House, witness statement dated 20 March 2023.

20. Dr Milligan provided a witness statement, dated 5 December 2024, and a further statement dated 3 February 2025. He also gave oral evidence to the Tribunal.

21. In Dr Milligan's evidence he provided details by way of background XXX.

22. In relation to the incident on 26 August 2022, Dr Milligan provided background to his time at the Practice and stated that he had an extremely intense workload and had become increasingly stressed XXX. On that day, he had taken XXX car to work as his own had been experiencing mechanical issues. Dr Milligan stated that he had been on call that morning and was asked to attend a meeting with Dr C and Dr D about his performance which he found to be extremely stressful. He stated that it was the Friday before the bank holiday weekend, so the Practice was even busier than usual. He stated that he had been very anxious prior to the meeting and XXX. He stated that at the meeting there did not seem to be any recognition of

the stress he was under and he felt the other partners were being dismissive of his workload. He stated that:

‘Over lunchtime, I drove to the local supermarket to try and process the meeting and its outcomes. I purchased some pre-mixed G&T cans to have over the weekend [XXX]. As I was returning from lunch, [XXX].

I recognise now that in hindsight, I should not have returned to the Practice but I was conscious that I had a full list of booked appointments some of whom had booked specifically to see me. I am and always have been totally committed to the care of my patients and I really did not want to let them down. I thought it would be difficult, if not impossible, to find alternative cover for these appointments particularly on a bank holiday weekend.

In the circumstances, I regrettably decided to return to the Practice and to carry on with the afternoon clinic. I knew that I would not be able to see patients in person but thought to carry out telephone consultations and advised the Practice Manager accordingly. On reflection it is painfully clear to see that, although my intentions were good, I was clearly neither [XXX] equipped to be taking care of patients.

When I returned to the Practice, I consumed alcohol from one of the cans of G&T. Although, my recollection of that afternoon is poor, I understand that I did speak to some patients on the telephone. I am deeply regretful of my actions...’

23. Dr Milligan stated that he went on XXX leave immediately after the incident. XXX. He did not return to work until 20 March 2023 when he commenced work as a GP at the South Queen Medical Practice in Morley. XXX. He explained that whilst he enjoyed the return to work, he started to feel under more pressure to take on additional sessions and began to feel isolated XXX. He also explained that XXX his home was burgled and that the experience had been devastating. He explained that he had lost irreplaceable items XXX. He was also extremely concerned that the thieves would return to his home XXX. For this reason, he was staying downstairs at night and was unable to sleep properly. Dr Milligan explained that it was against this backdrop that he took the actions of drinking on 13 June 2023 which led to him subsequently driving his car whist over the prescribed alcohol limit.

24. Dr Milligan stated that he did not return to work after this incident and has not worked since. In his evidence, he provided details regarding the changes he has made since these events and how he has been proactive in XXX. He also spoke of his love for medicine and incredible honour he feels in being a doctor and to be trusted by patients with their health.

Submissions

GMC Submissions

25. On behalf of the GMC, Mr Rankin submitted that Dr Milligan's fitness to practise was impaired by reason of misconduct, a criminal conviction XXX.

26. Mr Rankin reminded the Tribunal of the two-stage approach to be followed, first it must consider the misconduct, conviction XXX, and then whether Dr Milligan's fitness to practise is impaired. Mr Rankin submitted that the criminal conviction and XXX aspects of the case speak for themselves. He submitted that the conviction related to a relatively serious offence and that to an extent XXX from which the conviction flowed.

27. In relation to the misconduct, Mr Rankin submitted that the misconduct must be serious and advised that whilst there was no definition of serious misconduct, it has been described as conduct that is deplorable and of a morally culpable or of an otherwise disgraceful kind. He submitted that the misconduct in this case was serious.

28. Mr Rankin submitted that Dr Milligan put patients at risk, brought the profession into disrepute and breached fundamental tenets of the profession. He submitted that it was self-evident that dealing with patients when drinking alcohol must represent a risk to patients. Further, he submitted that any right-minded individual would regard this as behaviour that brings the profession into disrepute. In regard to whether Dr Milligan had breached fundamental tenets of the profession, he submitted that the following paragraphs of GMP 2013 were engaged:

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.

13 You must take steps to monitor and improve the quality of your work.

[XXX]

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

29. Mr Rankin submitted that paragraph 13 of GMP may not be directly engaged in this case but that this was a matter for the Tribunal's consideration and judgement.

30. Mr Rankin also submitted that throughout its deliberations on impairment the Tribunal must have at the forefront of its mind the public interest, namely the need to

protect patients, maintain public confidence in the profession and uphold proper standards in the profession.

Submissions on behalf of Dr Milligan

31. On behalf of Dr Milligan, Mr Gillespie submitted that it was clear from the evidence, XXX, that there was a link between XXX and the misconduct and conviction matters in this case.

32. XXX

33. XXX

34. XXX

35. In relation to the misconduct matter, Mr Gillespie submitted that it was accepted that drinking alcohol while at work, whether or not you are seeing patients in the room or over the telephone, is a serious departure from proper professional standards. He submitted that it was conceded that it amounts to misconduct that was serious.

36. Mr Gillespie submitted that the question of whether there is a risk to patient safety in the future was a matter for the Tribunal to consider. He submitted that there was plainly a risk at the time but whether that risk stills exists is a different matter.

37. Mr Gillespie accepted that members of the public would be concerned by Dr Milligan's conviction and that such a conviction damages the reputation of the profession. He accepted that there have been breaches of the fundamental tenets of the medical profession.

38. Mr Gillespie submitted that Dr Milligan has achieved a high level of insight. He submitted that the Tribunal can be satisfied that Dr Milligan has accrued a very high level of insight into the reasons for his behaviour and the underlying causes. Mr Gillespie submitted that Dr Milligan has not sought to shift blame and has looked deeply at himself, his reactions to things and his ways of thinking. He submitted that Dr Milligan has not only thought deeply about why this happened but also how he can avoid a recurrence. Notwithstanding this insight, Mr Gillespie submitted that it was accepted on behalf of Dr Milligan that his fitness to practise is currently impaired XXX.

The Relevant Legal Principles

39. The Tribunal must have regard to the overarching objective which is 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.

40. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof, and the decision of impairment is a matter for the Tribunal's judgement alone.

41. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first, whether the facts as found proved amounted to misconduct and whether the said misconduct was serious. It must then consider whether, as a result of the misconduct, Dr Milligan's fitness to practise is impaired today.

42. The Tribunal was reminded of the case of Remedy UK v the GMC [2010] EWHC 1245 (Admin) where it was stated that:

'Misconduct was of two principal kinds: First, it may involve sufficiently serious misconduct in the exercise of professional practice such that it could properly be described as misconduct going to fitness to practise. Second, it could involve conduct of a morally culpable or otherwise disgraceful kind which may, and often would, occur outside the course of professional practice itself, but which brought disgrace upon the doctor and thereby prejudiced the reputation of the profession ...'

43. The Tribunal was advised to consider guidance on this matter provided in the case of *Cheatle v GMC [2009] EWHC 645 (Admin)*. The Tribunal was advised that whilst the word 'serious' did not appear in the Medical Act 1983, it was made clear in *Meadow v General Medical Council [2006] EWCA Cid 1390* that misconduct could be found where a doctor's actions fell seriously short of the standards expected of a competent practitioner.

44. Misconduct has been defined as a word of general effect, *'involving some act or omission which falls short of what would be proper in the circumstances'* and that *'the standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances'* as per Lord Clyde in *Roylance v GMC*.

45. The Tribunal shall have regard to the GMP (published March 2013 and came into effect April 2013 and updated November 2020) as this was the version in force at the time of the Allegation. The Tribunal was reminded that Mr Rankin had invited it to consider paragraphs 1, 13, XXX and 65 of GMP.

46. If a finding of misconduct is made, the Tribunal must then determine whether Dr Milligan's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors as to whether the matters are remediable and the likelihood of repetition.

47. XXX

48. The Tribunal was reminded that there is no statutory definition of impairment. The Tribunal was referred to the guidance provided by Dame Janet Smith in the *Fifth Shipman Report* as adopted by the High Court in cited in *Council for Health and Regulatory Excellence v NMC and P Grant* ('Grant'). In particular the Tribunal should consider whether its finding of facts showed that Dr Milligan's fitness to practise is impaired in the sense that 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 or is likely 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*
- ...'*

49. As per the case of *Cohen v General Medical Council [2008] EWHC 581 (Admin)*, the Tribunal must determine whether the misconduct is remediable and if so, has it been remedied. The Tribunal should also bear in mind the case of *GMC v Meadow [2006] EWCA Civ 1390* in which it advised that: *'...the purpose of FTP proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. The FTP proceedings thus look forward not back. However, in order to form a view as to the fitness of a person to practise today, it is evident that it will have to take account of the way in which the person concerned has acted or failed to act in the past.'*

50. The Tribunal must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made, as set out in the case of *Uppal [2015] EWHC 1304*.

51. In regard to the criminal conviction, the Tribunal was advised, as per the case of *Wray v General Osteopathic Council [2020] EWHC 3409*, that it should form its own view of the gravity of the conviction and its relevance to fitness to practise.

The Tribunal's Determination on Impairment

Misconduct

52. The Tribunal first considered whether the facts found proved at paragraphs 1a and 1b of the Allegation amounted to serious misconduct. To reiterate, it was admitted and found proved that on 26 August 2022 whilst conducting his afternoon clinic at the Practice, Dr Milligan was under the influence of alcohol and had been drinking alcohol.

53. The Tribunal bore in mind that it was a conscious decision on Dr Milligan's part to bring alcohol into the Practice, consume that alcohol and to continue to consult patients albeit on the telephone. It considered this to be very serious and to fall way below the

standards expected of doctors. It considered that Dr Milligan had breached the following paragraphs of GMP:

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

[XXX]

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

54. The Tribunal noted Mr Rankin's submission in relation to paragraph 13 of GMP but did not consider this to be engaged in this case. It bore in mind that no allegation had been put forward in relation to the quality of Dr Milligan's work, albeit it accepted that there was a risk that the quality of a doctor's work would be affected if they consumed alcohol at work.

55. The Tribunal decided that Dr Milligan's actions would put patients at risk of harm.

56. The Tribunal also bore in mind the impact Dr Milligan's behaviour would have had on his colleagues who had to deal with this incident. In terms of managing Dr Milligan, XXX, his patients' needs when he was unable to deal with their appointments and other staff at the Practice who witnessed or were made aware of the incident.

57. The Tribunal determined that fellow practitioners and members of the public would consider such behaviour to be deplorable. Accordingly, the Tribunal determined that Dr Milligan's conduct fell so far short of the standards expected of him so as to amount to serious misconduct.

Impairment

58. The Tribunal considered whether Dr Milligan's fitness to practise is impaired by reason of the misconduct as set out in paragraph 1a and 1b of the Allegation.

59. The Tribunal had regard to the test for impairment as established in *Grant* and considered the following limbs to be engaged, namely that Dr Milligan:

- 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;*

60. The Tribunal considered whether Dr Milligan's misconduct was capable of being remedied, has been remedied, and whether it was likely to be repeated. In so doing, it considered whether there was evidence of Dr Milligan's insight into his misconduct and evidence of steps he has taken to address his previous failings. The Tribunal looked for evidence of insight, remediation and the likelihood of repetition and balanced those against the three limbs of the statutory overarching objective.

61. The Tribunal determined that Dr Milligan's actions in drinking alcohol at work and being under the influence of alcohol at work put patients at unwarranted risk of harm, brought the profession into disrepute and breached fundamental tenets of the medical profession. The Tribunal considered that there was also a future risk. Whilst it considered the misconduct to be remediable and that Dr Milligan has worked very hard to develop a good level of insight into his misconduct, it was mindful of how his alcohol use was precipitated XXX. As such, the Tribunal considered that there was a risk that Dr Milligan could repeat such misconduct in the future.

62. The Tribunal therefore found that Dr Milligan's fitness to practise is impaired by reason of misconduct. It considered that such a finding was necessary 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.

63. The Tribunal next considered whether Dr Milligan's fitness to practise is impaired by reason of his criminal conviction. Dr Milligan admitted this through his counsel, but the Tribunal has applied its own judgment.

64. The Tribunal acknowledged that driving a motor vehicle having substantially exceeded the prescribed legal alcohol limit risked serious harm to other road users and Dr Milligan himself.

65. The Tribunal accepted that there was a causal link between Dr Milligan's conviction, and XXX. However, the Tribunal considered that a conviction for being in charge of a motor vehicle while over the prescribed limit was a serious matter. It indicated poor decision making on Dr Milligan's part. The Tribunal decided that Dr Milligan's action breached GMP, which states at paragraph 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'* and paragraph 65 *'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'* The Tribunal decided that the conviction met the threshold for consideration of impairment.

66. In terms of remediation and insight, the Tribunal bore in mind that Dr Milligan pleaded guilty to the offence and it considered that he has developed good insight into the

XXX matters that had led to the conviction. However, the Tribunal noted that he is still serving his sentence and remains disqualified from driving until 3 June 2025. XXX.

67. The Tribunal considered that a conviction of a doctor for a drink driving offence would seriously undermine public confidence in both Dr Milligan and the medical profession. The Tribunal considered that the conviction engaged limbs (b) and (c) of the *Grant* test, namely that the conviction brought the profession into disrepute and breached fundamental tenets of the profession.

68. The Tribunal determined that Dr Milligan's fitness to practise is impaired by reason of his criminal conviction. It considered that such a finding was necessary 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.

69. XXX

70. XXX

71. XXX

72. XXX

73. XXX

74. XXX

75. XXX

76. In conclusion, the Tribunal found that Dr Milligan's fitness to practise is impaired by reason of his misconduct, criminal conviction XXX. It considered that a finding of impairment XXX was necessary to protect, promote and maintain the health, safety and wellbeing 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 Sanction - 11/02/2025

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

The Evidence

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

Submissions

GMC submissions

3. On behalf of the GMC, Mr Rankin submitted that the appropriate sanction was conditions. He also informed the Tribunal that Dr Milligan was currently subject to an interim order of conditions.

4. Mr Rankin reminded the Tribunal of the principles to be applied at the sanctions stage. He submitted that the Tribunal should have regard to the public interest, the principle of proportionality and consider the least restrictive sanction first and work upwards until the appropriate sanction is reached.

5. Mr Rankin submitted that there were no exceptional circumstances in this case to justify taking no action. He submitted that the admitted facts are serious and amount to serious departures of the expected standards. He further submitted that taking no action would not be appropriate because Dr Milligan, as observed by the Tribunal at paragraph 66 of its determination on facts and impairment, remains disqualified from driving until 3 June 2025. Mr Rankin referred the Tribunal to paragraph 119 of the Sanctions Guidance (SG) which advises that:

‘119 As a general principle, where a doctor has been convicted of a serious criminal offence or offences, they should not be permitted to resume unrestricted practice until they have completed their sentence.’

6. Mr Rankin submitted that conditions were appropriate in Dr Milligan’s case. He submitted that paragraph 81 of the SG provides that:

‘81 Conditions might be most appropriate in cases:

[XXX]

***b** involving issues around the doctor’s performance’*

He submitted that XXX there were elements of Dr Milligan’s performance being undermined by the use of alcohol, as such he put 81b forward for the Tribunal’s consideration.

7. Mr Rankin also submitted that conditions would be workable and drew the Tribunal’s attention to paragraph 82 of the SG which advises that:

‘82 Conditions are likely to be workable where:

***a** the doctor has insight*

b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings

c the tribunal is satisfied the doctor will comply with them

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

8. Mr Rankin also drew the Tribunal's attention to paragraph 84a XXX of the SG which provide that:

'84 Depending on the type of case (eg health, language, performance or misconduct), some or all of the following factors being present (this list is not exhaustive) would indicate that conditions may be appropriate:

a no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage

[XXX]

9. Mr Rankin submitted that Dr Milligan has insight and noted that he had fully cooperated XXX. Mr Rankin submitted that the last time Dr Milligan returned to work, it did not turn out very well, culminating in the conviction for driving whilst over the prescribed alcohol limit. Mr Rankin submitted that the Tribunal might consider that further management of stress is needed, therefore conditions would be proportionate.

10. Mr Rankin submitted that a sanction of suspension was not warranted in Dr Milligan's case. He submitted that Dr Milligan has developed insight and has appropriately tried to address his XXX issues. In summary, Mr Rankin submitted that conditions would be both appropriate and proportionate.

Submissions on behalf of Dr Milligan

11. On behalf of Dr Milligan, Mr Gillespie submitted that the proportionate response to the issues in this case was a sanction of conditions.

12. Mr Gillespie accepted that this was not a case where taking no action could be justified and that there were no exceptional circumstances. He also submitted that a sanction of suspension, even for a brief period, would be a disproportionate response to the issues raised in the case and to the work Dr Milligan has done since these matters have come to light.

13. Mr Gillespie submitted that this case should be viewed against the background of XXX. Mr Gillespie accepted that the misconduct and conviction are serious matters but

submitted that there was a link between the misconduct and conviction, and XXX. He submitted that this link was important as to how the public would perceive any sanction that is imposed. He submitted by contrast, that a case where a doctor commits misconduct where there is no XXX, falls to be treated very differently to a case such as Dr Milligan's.

14. Mr Gillespie reminded the Tribunal of the general principles to be considered at the sanction stage and that sanctions are not intended to be punitive but may have a punitive effect.

15. Mr Gillespie submitted that the Tribunal would have regard to the public interest. He submitted that there was a public interest in allowing good doctors to practise medicine; in so doing, he referred the Tribunal to the case of *Giele v General Medical Council [2005] EWHC 2143 (Admin)* 'Giele', where it was said:

'I do not doubt that the maintenance of public confidence in the profession must outweigh the interests of the individual doctor. But that confidence will surely be maintained by imposing such sanction as is in all the circumstances appropriate. Thus in considering the maintenance of confidence, the existence of a public interest in not ending the career of a competent doctor will play a part...'

16. Mr Gillespie added that the case of *Giele* was a more serious case because it involved the consideration of erasure, however, he submitted that the general principle still holds true when it comes to potentially restricting the practice of a doctor.

17. Mr Gillespie addressed the Tribunal in relation to Dr Milligan's disqualification from driving and whether this should have any effect on the Tribunal's decision. He referred the Tribunal to the case of *Council for the Regulation of Health Care Professionals v GDC v Fleischmann [2005] EWHC 87 ('Fleischmann')* where the High Court Judge advised that:

'...as a general principle, where a practitioner has been convicted of a serious criminal offence or offences he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise. Such circumstances could arise in connection with a period of disqualification from driving or time allowed by the court for the payment of a fine...'

18. Mr Gillespie submitted that the principle in *Fleischmann* is more concerned with custodial sentences, rather than a sentence such as a disqualification or a fine. In regard to Dr Milligan's sentence, Mr Gillespie submitted that the fine has been paid and that Dr Milligan completed a course that served to reduce the driving ban. Mr Gillespie submitted that the fact that there are a few months outstanding on the driving ban should not dissuade or discourage the Tribunal from imposing a sanction that allows Dr Milligan to practise, albeit with restrictions.

19. Mr Gillespie submitted that paragraph 119 of the SG seems to have adopted the principle in *Fleischmann* as it advises that a doctor should not be permitted to resume unrestricted practice until they have completed their sentence.

20. Mr Gillespie submitted that one of the features of Dr Milligan's case is how passionate Dr Milligan is about being a doctor and practising medicine. Mr Gillespie submitted that Dr Milligan is not 'one of the new breed of businessmen doctors.' He submitted that Dr Milligan likes practising medicine and dealing with patients. He submitted that Dr Milligan regards medicine as his calling and not merely a job.

21. Mr Gillespie invited the Tribunal to consider the aggravating and mitigating features. He noted that a lack of insight can be an aggravating factor but submitted that this was not an issue in this case. He further submitted that it cannot be said that there has been failure to take appropriate steps or demonstrate timely development of insight. Mr Gillespie also submitted that there have been no previous findings of impairment of Dr Milligan's fitness to practise; XXX.

22. Mr Gillespie noted that XXX the SG advises that tribunals are likely to take more serious action in cases where conduct arises in a doctor's personal life, XXX. Mr Gillespie submitted that the Tribunal was already dealing with a conviction for drink driving, and to say that this was aggravated by the fact of alcohol use, would be 'double counting'. In any event, Mr Gillespie submitted that the mitigating factors in Dr Milligan's case far outweigh anything that could be said to aggravate the matter.

23. Mr Gillespie submitted that the following mitigating factors were engaged as listed at paragraph 25 of the SG:

25 *The following are examples of mitigating factors.*

a Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it. This could include the doctor admitting facts relating to the case, apologising to the patient (see paragraphs 42–44), making efforts to prevent behaviour recurring..

b Evidence that the doctor is adhering to important principles of good practice (ie keeping up to date, working within their area of competence), and of the doctor's character and previous history. This could include evidence that the doctor has not previously been found to have impaired fitness to practise by a tribunal, a previous MPTS panel or by the GMC's previous panels or committees.

d Personal and professional matters, such as work-related stress.

e Lapse of time since an incident occurred.

24. Mr Gillespie also drew the Tribunal's attention to paragraphs 31 -33 of the SG regarding remediation. He conceded that Dr Milligan has not fully remediated. However, he asserted that Dr Milligan has taken more than sufficient steps to remediate but will need help in the future. Mr Gillespie also submitted, with reference to paragraphs 42- 45 of the SG, that Dr Milligan has expressed regret and remorse numerous times which was quite clearly genuine.

25. XXX

26. XXX

27. Mr Gillespie confirmed that Dr Milligan is currently subject to an interim order of conditions. He submitted that if the Tribunal does determine that a sanction of conditions is appropriate, it would be strange if there was not to be an immediate order of conditions to cover the 28 day period before the sanction takes effect.

28. Mr Gillespie submitted that suspension was not appropriate. He noted that paragraph 92 of the SG advises that:

'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...'

29. Mr Gillespie submitted that the seriousness of the misconduct does not reach the degree of seriousness whereby suspension is necessary given the link between the misconduct, conviction XXX, and good evidence of insight and remediation. Mr Gillespie also drew the Tribunal's attention to paragraph 97 of the SG which provides a list of factors which being present would indicate suspension may be appropriate. He submitted that none of these factors were applicable in this case.

30. Mr Gillespie provided the Tribunal with a copy of Dr Milligan's current interim order conditions as well as Dr Milligan's voluntary undertakings with NHS England. He submitted these may assist the Tribunal to see what has been in place and what can be improved or modified to meet the different considerations the Tribunal has to apply.

31. Mr Gillespie submitted that the Tribunal may consider that given that Dr Milligan has not been in practice for some time, a degree of supervision may be necessary on the grounds of patient safety. He submitted that if the Tribunal does go down that route, it is not a case that demands either close or direct supervision, but just basic supervision which would involve fortnightly meetings with his supervisor and case-based discussions. Mr Gillespie submitted that there is nothing to suggest huge flaws or problems in Dr Milligan's medical practice but that the supervision would guard against any concerns that Dr Milligan might be slightly rusty after a period of not working.

32. Mr Gillespie noted that Dr Milligan’s issues seemed to have arisen from overwork and stress and he submitted the Tribunal should consider the type and amount of work that Dr Milligan undertakes. He submitted that the Tribunal may wish to impose a condition limiting any locum or fixed contract work to a minimum period of time. He submitted that the Tribunal can also limit the number of sessions Dr Milligan can do per week. Mr Gillespie submitted that GPs are required to be on call and suggested it was best to leave this to Dr Milligan and any supervisor.

33. XXX

34. In summary, Mr Gillespie submitted that there was a ‘menu’ of conditions that the Tribunal can select from which would satisfy all aspects of the public interest. He submitted that Dr Milligan was prepared to comply with whatever the Tribunal imposes and just wants to get back to work because he is a doctor and that is what motivates him. Mr Gillespie submitted that the Tribunal can direct a review hearing and suggested that the Tribunal impose conditions for the median length available to it.

The relevant legal principles

35. The decision as to the appropriate sanction, if any, is a matter for this Tribunal, exercising its own judgment. The Tribunal has taken account of the *SG (February 2024)* and the statutory overarching objective.

36. The Tribunal recognised that the purpose of a sanction is not to be punitive, although it may have a punitive effect.

37. Throughout its deliberations, the Tribunal should apply the principle of proportionality, balancing Dr Milligan’s interest with the public interest. It can be in the public interest to allow good doctors to practise medicine and still maintain confidence in the profession as set out in the case of *Giele*.

38. In deciding what sanction to impose, the Tribunal must consider each of the sanctions available, starting with the least restrictive.

39. The Tribunal should consider any aggravating and mitigating factors.

40. The Tribunal was advised that even if there is a strong link between the misconduct, conviction XXX, it must nevertheless address the misconduct and conviction to ensure that public confidence is maintained.

41. The Tribunal bore in mind that Dr Milligan has been convicted of an offence of being in charge of a motor vehicle while over the prescribed alcohol limit. The Tribunal was advised that a sentence imposed by a Criminal Court is not necessarily a reliable guide to the gravity of the offending. In terms of maintaining public confidence in the profession, it should make its own decision about that.

42. The Tribunal was reminded of the *Fleischmann* principle in terms of sentence or disqualification arising from a conviction and when a doctor may be permitted to resume their medical practice. The Tribunal will note that this principle is reflected in paragraph 119 of the SG. The Tribunal should have regard to the reference to unrestricted practice, which is consistent with the *Fleischmann* principle.

43. The Tribunal was also reminded of the statutory overarching objective which is to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of the profession.

The Tribunal's Determination on Sanction

Aggravating and Mitigating Factors

44. The Tribunal first considered and balanced any aggravating and mitigating factors.

45. In terms of aggravating factors, the Tribunal noted that Dr Milligan's misuse of alcohol led to poor decisions which gave rise to the misconduct and a conviction. XXX

46. In regard to mitigating factors, the Tribunal considered the following paragraphs of the SG to be engaged:

'25 The following are examples of mitigating factors.

a Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it. This could include the doctor admitting facts relating to the case, apologising to the patient (see paragraphs 42–44), making efforts to prevent behaviour recurring, or correcting deficiencies in performance or knowledge of English.

b Evidence that the doctor is adhering to important principles of good practice (ie keeping up to date, working within their area of competence), and of the doctor's character and previous history. This could include evidence that the doctor has not previously been found to have impaired fitness to practise by a tribunal, a previous MPTS panel or by the GMC's previous panels or committees

...

d Personal and professional matters, such as work-related stress.

e Lapse of time since an incident occurred'

47. The Tribunal considered that the mitigating factors significantly outweighed the aggravating factors in this case.

No action

48. The Tribunal first considered whether to conclude the case by taking no action. It bore in mind that taking no action after a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal considered that there were no exceptional circumstances in this case that would justify taking no action. It determined that taking no action would not be in the public interest, nor would it be appropriate or proportionate to deal with the risks identified.

Conditions

49. The Tribunal next considered whether conditions would be appropriate and proportionate.

50. The Tribunal had regard to the relevant paragraphs of the SG. It considered the following to be particularly relevant in this case:

[XXX]

82 *Conditions are likely to be workable where:*

- a the doctor has insight*
- b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*
- c the tribunal is satisfied the doctor will comply with them*
- d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised....*

84 *Depending on the type of case (eg health, language, performance or misconduct), some or all of the following factors being present (this list is not exhaustive) would indicate that conditions may be appropriate:*

a no evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage

...

c willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date throughout their working life, improving the quality of their work and promoting patient safety (Good medical practice, paragraphs 7–13 on knowledge, skills and performance and paragraphs 22–23 on safety and quality

[XXX]

85 *Conditions should be appropriate, proportionate, workable and measurable.*

51. The Tribunal considered that there were conditions which could be formulated which would be appropriate, proportionate, workable and measurable. It considered that Dr Milligan has insight and would respond positively to conditions. It was encouraged by his progress to date. In his evidence he impressed upon the Tribunal his passion for medicine and his resolve XXX. He also accepted the gravity of his misconduct and conviction, showed genuine remorse on numerous occasions and had an understanding of how his actions could impact his patients' and colleagues' trust and confidence in him as a doctor. He also stated that he appreciated that he would have to work to regain the public's trust. He was optimistic that his patients, colleagues and the wider public could learn to trust him again, given the circumstances of the case and the steps he has taken since the incidents that gave rise to the allegation, XXX.

52. The Tribunal determined a sanction of conditions would protect the public, maintain confidence in the medical profession and uphold professional standards.

53. The following conditions will be published.

1 He must personally ensure that the GMC is notified of the following information within seven calendar days of the date these conditions become effective:

a of the details of his current post, including:

i his job title

ii his job location

iii his responsible officer (or their nominated deputy)

b the contact details for his employer and any contracting body, including his direct line manager

c of any organisation where he has practising privileges and/or admitting rights

d of any training programmes he is in

- e of the organisation on whose medical performers list he is included
 - f of the contact details of any locum agency or out-of-hours service he is registered with.
- 2 He must personally ensure the GMC is notified:
- a of any post he accepts, before starting it
 - b that all relevant people have been notified of his conditions, in accordance with condition 13
 - c if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings
 - d if any of his posts, practising privileges or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination
 - e if he applies for a post outside the UK.
- 3 He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.
- 4
- a He must have a workplace reporter appointed by his responsible officer (or their nominated deputy).
 - b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his workplace reporter
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.
- 5
- a He must be supervised in all of his posts by a clinical supervisor, as defined in the *Glossary for undertakings and conditions*. His clinical supervisor must be approved by his responsible officer (or their nominated deputy).
 - b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his clinical supervisor and approved his supervision arrangements

- ii he has personally ensured that the GMC has been notified of the name and contact details of his clinical supervisor and his supervision arrangements
- 6 He must not work in any locum post or fixed term contract of less than four weeks duration.
- 7 He must not work out-of-hours.
- 8 He must only work in a group practice setting where there is a minimum of two GP partners or employed GPs (excluding himself). The GPs must be partners or permanently employed GPs who are on the GP register (this excludes locum staff).
- 9
 - a He must get the approval of his responsible officer (or their nominated deputy), before working as a locum / in a fixed term contract.
 - b He must not work until:
 - i his responsible officer (or their nominated deputy) has confirmed approval
 - ii he has personally ensured that the GMC has been notified of the approval of his responsible officer (or their nominated deputy).
- 10 He must not work in any post for more than 6 sessions per week. A session is defined as half a day in the *Glossary for undertakings and conditions*.
- 11 He must get the approval of the GMC before working in a non-NHS post or setting.
- 12
 - a He must get the approval of his GMC Adviser before accepting any post.
 - b He must keep his professional commitments under review and limit his work if his GMC Adviser tells him to.
 - c He must stop work immediately if his GMC Adviser tells him to and must get the approval of his GMC Adviser before returning to work.
- 13 He must personally ensure that the following persons are notified of the conditions listed at 1 to 12:
 - a his responsible officer (or their nominated deputy)
 - b the responsible officer of the following organisations
 - i his place(s) of work and any prospective place of work (at the time of application)

- ii all his contracting bodies and any prospective contracting body (prior to entering a contract)
 - iii any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)
 - iv any locum agency or out-of-hours service he is registered with
 - v if any organisation listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within the organisation. If he is unable to identify this person, he must contact the GMC for advice before working for that organisation.
- c the responsible officer for the medical performers list on which he is included or seeking inclusion (at the time of application)
 - d the approval lead of his regional Section 12 approval tribunal (if applicable) - or Scottish equivalent
 - e his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

54. XXX

Duration of the conditions

55. In determining the duration of the period of conditions, the Tribunal determined that a period of 18 months would be a reasonable period of time for Dr Milligan to secure appropriate work and for his coping mechanisms to be tested in a supportive working environment, so that he will be able to provide an update of his continued progress to a tribunal at a future hearing.

Review

56. The Tribunal determined that a review hearing was necessary. It was mindful that a doctor should not be allowed to resume unrestricted practice following a period of conditional registration or suspension unless a tribunal considers that they are safe to do so.

57. Accordingly, the Tribunal directed a review of Dr Milligan's case. A review hearing will convene shortly before the end of the period of conditions. At a review hearing the onus will be on Dr Milligan to demonstrate how he has continued to make progress and remediate,

and whether he is fit to practise without conditions. The Tribunal considered that a reviewing tribunal would be assisted by:

- XXX;
- Any other relevant information which Dr Milligan considers will assist a reviewing tribunal, for example supervisors' reports and evidence of continuing professional development and/or appraisal documentation;
- XXX.

Determination on Immediate Order - 11/02/2025

1. Having determined to impose conditions on Dr Milligan's registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Milligan's registration should be subject to an immediate order.

Submissions

2. At the sanction stage Mr Rankin had advised that an interim order was in place which would have to be dealt with, and Mr Gillespie submitted that if the Tribunal did impose a sanction of conditions an immediate order should be made.

3. On behalf of Dr Milligan, Mr Gillespie reiterated his submission that an immediate order should be made. He submitted that given the Tribunal's findings, it would be contrary to the public interest if an immediate order was not made and that it would be strange if there were to be a gap between the lapse of the interim order and the substantive order coming into effect.

4. On behalf of the GMC, Mr Rankin agreed that an immediate order should be made.

The Tribunal's Determination

5. The Tribunal had regard to the submissions made by the parties and to the relevant paragraphs of the SG from paragraph 172 -178. In particular, it had regard to paragraph 172 which advises that:

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.

6. The Tribunal determined that given its findings an immediate order is necessary to protect members of the public, is otherwise in the public interest and is in the best interests of the doctor. The Tribunal imposed a sanction of conditions to provide the necessary safeguards to protect the public and it would be inconsistent if an immediate order was not made to protect the public during the period before the substantive conditions can come into effect.

7. This means that Dr Milligan's registration will be made subject to the immediate conditions from today. The substantive direction 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.

8. The interim order is hereby revoked.

9. Case concluded.

ANNEX A – 11/02/2025

Application for the hearing to be heard in private under Rule 41

1. At the outset of the hearing, Mr Chris Gillespie, Counsel, on behalf of Dr Milligan, made an application under Rule 41 of the General Medical Council (Fitness to Practise) Rules, as amended ('the Rules'), for the whole hearing to be held in private.

Submissions

On behalf of Dr Milligan

2. XXX

3. XXX

4. XXX

5. XXX

6. In summary, Mr Gillespie submitted that XXX matters were so interlinked with the misconduct and conviction, that it was fair and just that the full hearing be heard in private.

7. Mr Rankin submitted that the GMC was neutral in relation to the application. XXX.

The Tribunal's decision

8. The Tribunal had regard to Rule 41 of the Rules. This provides that hearings should be heard in public, unless the circumstances of the case require it to be in private XXX

9. XXX

10. The Tribunal considered that it would be impractical and time consuming to try to manage the hearing by going in and out of private session and that there would be a real risk of private matters inadvertently being discussed whilst in public session. The Tribunal determined that the hearing should be held in private in fairness to Dr Milligan. Further, it was in the public interest for the hearing to be managed efficiently and there would be a redacted version of the Tribunal's determination available to the public after the hearing, with all matters relating to XXX redacted.

11. Accordingly, the Tribunal granted the application that the hearing be held in private in accordance with Rule 41 of the Rules.