

**PUBLIC RECORD**

**Dates:** 04/09/2025  
08/10/2025

**Doctor:** Dr Mark O'FLYNN

**GMC reference number:** 3689501

**Primary medical qualification:** MB BS 1992 University of London

Type of case	Outcome on impairment
Review - Misconduct	Impaired
XXX	XXX

**Summary of outcome**

Conditions, 18 months.  
Review hearing directed

**Tribunal:**

Legally Qualified Chair	Ms Rosemary Rollason
Lay Tribunal Member:	Dr Richard Whiteside
Registrant Tribunal Member:	Dr Suzanne Joels

Tribunal Clerk:	Ms Keely Crabtree 04/09/2025 Ms Olivia Gamble 08/10/2025
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**Attendance and Representation:**

Doctor:	Present, not represented
GMC Representative:	Ms Emma Gilsenan, Counsel 04/09/2025 Ms Laura Barbour, Counsel 08/10/2025

**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 Impairment - 08/10/2025

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr O'Flynn's fitness to practise is impaired by reason of misconduct XXX.

## The Outcome of Applications Made during the Impairment Stage

2. The Tribunal granted the GMC's application, made pursuant to Rule 41 of the Rules, for the entirety of this hearing to be heard in private session XXX.

## Background

3. Dr O'Flynn's case was first considered by an MPT from 2 to 19 September 2024 and 18 to 19 November 2024 ('the 2024 Tribunal').

4. Dr O'Flynn qualified with MB BS at the University of London in 1992. Prior to the events which were subject of the 2024 hearing, Dr O'Flynn worked in General Surgery, Accident and Emergency and in General Medicine at consultant level. He has also worked for the Department of Health as Clinical Lead on a number of projects.

5. On 27 June 2022, Dr O'Flynn was working as a locum consultant in the Department of Medicine for the Elderly and Frailty Service at Luton Hospital, within the Bedfordshire Hospitals NHS Trust ('the Trust'). He had been working there since 20 June 2022, employed via an agency called Total Assist.

6. The facts found proved at Dr O'Flynn's hearing were, in summary, as set out below.

## *Misconduct*

7. Junior doctors at the Trust reported to the service line manager that they had multiple concerns about Dr O'Flynn's 'erratic behaviour' and that he appeared drunk on the ward. On 27 June 2022, the service line manager informed the Clinical Director at the Trust of these concerns, and they spoke to Dr O'Flynn together.

8. During this conversation, the 2024 Tribunal found proved that Dr O'Flynn said to them that he had an appraisal the week prior during which his Responsible Officer ('RO') had discussed with him XXX.

9. The 2024 Tribunal found proved that Dr O'Flynn had not had an appraisal the week before that conversation, and he did not have a discussion with his RO as stated. The 2024 Tribunal found proved that Dr O'Flynn's actions were dishonest.

10. The 2024 Tribunal determined that Dr O'Flynn's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct. It also considered the context and came to the conclusion that Dr O'Flynn's dishonest actions amounted to serious misconduct.

11. The 2024 Tribunal noted that Dr O'Flynn continued to deny that he made any dishonest statements despite the contemporaneous evidence. However, it recognised he was entitled to do so.

12. The 2024 Tribunal considered that a finding of impairment by reason of misconduct was necessary to uphold the second and third limbs of the overarching objective, namely, 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.

XXX

13. XXX

14. XXX

15. XXX

16. XXX

17. XXX

18. XXX

19. XXX

20. XXX

21. XXX

22. XXX

23. XXX

24. XXX

25. XXX

*The 2024 Tribunal's decision on Sanction*

26. The 2024 Tribunal considered that this was, by and large, XXX, with Dr O'Flynn's misconduct occurring as an attempt to XXX. Whilst the 2024 Tribunal had found that Dr O'Flynn had been dishonest, this was limited to one occasion and arose from poor judgement XXX. The 2024 Tribunal considered that Dr O'Flynn's actions were not fundamentally incompatible with continued registration.

27. The 2024 Tribunal considered that a period of suspension would be sufficient to protect patients from risk of harm, protect, promote and maintain public confidence in the profession and to protect, promote and maintain proper professional standards.

28. The 2024 Tribunal determined that a period of six months' suspension would be sufficient to allow Dr O'Flynn the time he needed to develop his insight. It also considered that this would be sufficient time to meet the seriousness of the findings and the public interest in the case and send the appropriate message to the profession.

29. The 2024 Tribunal determined to direct a review of Dr O'Flynn's case. It considered that a future Tribunal may be assisted if Dr Flynn provided at the review:

- evidence to show full insight into XXX;
- XXX;
- evidence of his up to date Continuing Professional Development (CPD);

- evidence to show that he has maintained his knowledge and clinical skills and kept them up to date; and
- any other information that he considers will assist.

May 2025 Tribunal

30. At the commencement of the May 2025 review hearing, Dr O'Flynn made an application to the Tribunal ('the May 2025 Tribunal') under Rule 29(2) of the Rules for the hearing to be adjourned for a period of 8 weeks. Dr O'Flynn submitted that there was further evidence in relation to his case that he had been unable to provide to the May 2025 Tribunal in advance of the hearing. Dr O'Flynn stated that this further evidence related to XXX. Dr O'Flynn stated that the evidence was important as it provided an update as to XXX and whether his fitness to practise remained impaired. XXX.

31. The May 2025 Tribunal was of the opinion that a period of 6-months suspension had been a relatively short timeframe in which to expect a Registrant XXX. It expressed sympathy with Dr O'Flynn in this respect, considering it a positive sign that Dr O'Flynn had attended before the May 2025 Tribunal to explain his situation.

32. The May 2025 Tribunal therefore concluded that it was in the public interest for the proceedings to be adjourned in order to ensure that the review hearing would be conducted fairly and effectively. It therefore determined that it would be appropriate to accommodate Dr O'Flynn's request.

33. In its determination, the May 2025 Tribunal emphasised that it was important that Dr O'Flynn should ensure that the adjournment period was used effectively to provide the additional evidence to the GMC in advance of the next review hearing. Dr O'Flynn was also reminded of the information which the November 2024 Tribunal had identified as likely to assist the review tribunal and which he had not provided.

34. The May 2025 Tribunal noted that the current order of suspension on Dr O'Flynn's registration was due to expire on 23 June 2025. Dr O'Flynn had no objection to the order of suspension being extended.

35. The May 2025 Tribunal determined that it was necessary for the protection of patients and in the public interest, to extend the current order of suspension under Section 35D(5)(c) of the Medical Act 1983, as amended, for a period of 3 months. It determined that a period of 3 months would ensure sufficient time for the hearing to be relisted to a new Tribunal and for Dr O'Flynn to adduce any further evidence he wished to.

This Review Hearing – Sitting on 04/09/2025 and 08/10/2025

36. This is the first effective review hearing of Dr O'Flynn's case following the adjournment of the May 2025 review hearing. This review hearing commenced on 4 September 2025, but adjourned part heard as the hearing was not concluded. The hearing has resumed today on 8 October 2025.

37. At the time of the adjournment on 4 September 2025, the Tribunal, with the agreement of both parties, extended the current order of suspension for a period of 3-months in order to ensure that it continued during the adjournment period.

**The Evidence**

38. The Tribunal has taken into account all the evidence received, both oral and documentary.

39. The documentary evidence included but was not limited to:

- Record of Determinations dated 19 November 2024 and 30 May 2025;
- Dr O'Flynn's reflections XXX;
- Dr O'Flynn's Continuous Performance Development certificates (CPD);
- Extract of BMA's returning to clinical practice after absence guide provided by Dr O' Flynn;
- XXX.

**Dr O'Flynn's Evidence**

40. Dr O'Flynn provided written reflections to the Tribunal XXX.

41. XXX

42. Dr O'Flynn said that no evidence had been provided by the GMC of XXX prior to, or while he was at work. He said that the witness statements that the GMC had been reliant upon at his initial hearing were all contradictory and the GMC barrister deliberately suppressed this.

43. Dr O'Flynn said that he had never been accused of causing injury to a patient in his career.

44. XXX

45. XXX

46. XXX

47. XXX

48. XXX

49. XXX

50. Dr O'Flynn said that there was also a number of other issues which were focused upon:

- Financial Stress;
- Overall stress XXX;
- Exceeding work guidelines due to committing to 90 plus hours a week (in a consultant role);
- Family issues, XXX;
- XXX;
- Different mechanisms to cope with stress and what these should be, XXX;
- How he should dramatically reduce his clinical activity to reduce stress
- Review and take advice from a financial advisor regarding financial issues and problems;
- XXX

51. XXX

52. XXX

53. XXX

### Submissions

#### Submissions on behalf of the GMC

54. On behalf of the GMC, Ms Emma Gilsenan, Counsel, submitted it was the GMC's position that Dr O'Flynn remains impaired in relation to his misconduct XXX. However, this was a matter for the Tribunal's own independent judgement.

55. Ms Gilsenan referred the Tribunal to the test for review cases as set out by Mr Justice Blake in *Abrahaem v GMC* [2008] EWHC 183. Mr Justice Blake held that in a GMC review hearing, there is a persuasive burden on the practitioner to demonstrate they have addressed past professional deficiencies through insight, education, or other achievements, showing a full acknowledgment of why their performance was deficient. The procedure is an "ordered sequence of decision making" where impairment must be assessed first, followed by consideration of sanctions.

56. Ms Gilsenan stated that the Tribunal may be assisted by the 2024 Tribunal's determination (paragraphs 172 to 186 and paragraphs 187 to 244) when considering whether Dr O'Flynn had sufficiently addressed his insight and remediated XXX the XXX misconduct concerns. She also referred the Tribunal to the 2024 Tribunal's recommendations of the evidence Dr O'Flynn could provide to a reviewing Tribunal (as above) which were also reiterated by the May 2025 Tribunal. Ms Gilsenan submitted that the onus was on Dr O'Flynn to demonstrate that he had insight and had remediated the concerns.

57. Ms Gilsenan said that it may be that this Tribunal finds the hurdle of Dr O'Flynn remediating his impairment insurmountable in light of the findings of the 2024 Tribunal and the absence of detailed reflections in relation to insight of the misconduct, namely the dishonesty, and what appears to be only developing insight in relation to XXX.

58. In addition, she said the Tribunal may be concerned that there was no objective or documentary evidence of XXX referenced by Dr Flynn in his reflective statement.

59. Ms Gilsenan submitted that in regard to the oral evidence from Dr O'Flynn, it can be framed as lacking cogency and the robustness required in respect of insight and remediation. Furthermore, in the case of *Abrahaem* (paragraph 32), Mr Justice Blake stated that it is important that no doctor should be allowed to resume unrestricted practice following a period of conditional registration or suspension unless the panel can be certain that he or she is safe to do so. She said that later in the same paragraph, it is also noted that in most cases where a period of suspension is imposed and, in all cases, where conditions have been imposed, the panel will need to be reassured that the doctor is either fit to resume practise either unrestricted or with conditions/further conditions. Finally, Mr Justice Blake emphasised that the panel will also need to satisfy itself that the doctor has fully appreciated the gravity of the offence, has not re offended, has maintained his or her skills and

knowledge and that patients will not be placed at risk by the resumption of practise or by the imposition of conditional registration.

60. Ms Gilsenan submitted on the face of the information provided by Dr O'Flynn, this Tribunal may properly form the view that Dr O'Flynn has not discharged the persuasive burden placed upon him that he is no longer impaired.

61. Ms Gilsenan referred the Tribunal to the case of *Meadow v GMC* [2006] EWCA Civ 1360. She reminded the Tribunal that it should look forward and not back. Further, in order to take a view on fitness to practise, it should take account of the way in which the practitioner acted in the past.

62. Ms Gilsenan also referred the Tribunal to paragraph 65 of the judgment in the case of *Cohen v GMC* [2008] EWHC 581 (Admin) which describes that when considering impairment of fitness to practise, a tribunal could consider three issues: whether the misconduct is easily remediable, has been remedied, and whether it is highly unlikely to be repeated.

63. Ms Gilsenan submitted that Dr O'Flynn's misconduct XXX was potentially remediable. However, she submitted that Dr O'Flynn's misconduct XXX concerns have not yet been remedied in light of the outstanding issues in respect of insight and remediation already referenced.

64. Ms Gilsenan submitted that on the face of the available evidence, the risk of repetition of misconduct was low, albeit not negligible. However, the same could not be said for XXX. Nevertheless, in light of the ongoing issues with insight and remediation, she submitted that there remained a risk of repetition going forwards.

65. Ms Gilsenan referred the Tribunal to the case of *CHRE v NMC and Paula Grant* [2011] EWHC 297 (Admin). Ms Gilsenan submitted that Dr O'Flynn had brought the profession into disrepute, namely by his dishonesty and had also breached one of the fundamental tenets of the medical profession. She submitted that Dr O'Flynn's integrity could not be relied upon.

66. Ms Gilsenan said that through her cross-examination of Dr O'Flynn it was clear that there was a stark lack of compelling evidence in respect of insight and remediation in respect of the absence of a detailed reflective statement addressing the specific and targeted concerns into insight of the misconduct XXX raised by the 2024 Tribunal. She stated that the GMC acknowledged that Dr O'Flynn had provided a reflective statement. Within the statement, there are a number of reflections and candid factors with which he had obviously grappled with to a certain level when considering factors which had led to the issues in 2022.

He also outlined the steps he said he had taken since in terms of addressing XXX. However, she submitted that Dr O'Flynn had been unable to provide clear, cogent, and persuasive oral evidence on the specific aspects of insight and remediation, both when answering questions from herself and the Tribunal.

67. Ms Gilsenan submitted there was an absence of any evidence from an objective party, XXX, over and above the documents provided by Dr O'Flynn. Ms Gilsenan's submission was that Dr O'Flynn's oral evidence had not provided a sufficient basis for this Tribunal to conclude that his insight has developed to such an extent that the level of risk is negligible, and the risk of repetition has significantly increased on the face of it.

68. Ms Gilsenan said that there had been some progress since 2024. However, more steps were required to further reduce the possible perceived risk to patients and the wider profession.

69. When considering the information as a whole, Ms Gilsenan submitted that Dr O'Flynn had not discharged the burden placed upon him to demonstrate that he is no longer impaired by way of misconduct XXX.

70. Ms Gilsenan invited the Tribunal to make a finding that Dr O'Flynn's fitness to practise is currently impaired by XXX his misconduct XXX. She submitted that this was not an exceptional case which would justify a finding of no impairment. Furthermore, she submitted that a finding of impairment was required to ensure that proper professional standards are maintained.

#### Dr O'Flynn's submissions

71. Dr O'Flynn said that in terms of his misconduct, it was his understanding from reading the documentation and the paragraphs referred to by Ms Gilsenan, it had been found that the likelihood of him repeating it was low, but not completely ruled out. He said that he found it very hard to find evidence that he would not at any time make a statement which could be misconstrued or lead to somebody misunderstanding what he was saying which could be construed as misconduct. He said that it was not in his nature to lie.

72. Dr O'Flynn said that he had never had a complaint in his career regarding his professional performance or standards. He said that he held the key point of medicine which was committing no harm and held this as a priority.

73. Dr O'Flynn said that he acknowledged that the statements/determinations before the Tribunal implied that he was dishonest in what he said but this was not his full recollection of what happened at that particular meeting. However, he said that the 2024 Tribunal did come to the conclusion that the likelihood of him repeating the misconduct was very unlikely or low. Further, the 2024 Tribunal did not comment on his professional conduct or harm to patients nor had the GMC put forward any evidence regarding this.

74. Dr O'Flynn said that he had read and taken on board the 2024 Tribunal findings. He said that it would not be in his nature to lie, deliberately confuse or make statements of a nature to divert attention away from what he had done. Dr O'Flynn said that people can make statements when under stress or in the heat of the moment, which may be misconstrued. However, he accepted that the documentation says that he effectively lied to the two other people in the meeting, although he did not believe he actually did this.

XXX

75. XXX

76. XXX

77. XXX

78. XXX

79. XXX

80. XXX

81. XXX

82. XXX

83. XXX

84. XXX

85. Dr O'Flynn reiterated that he believed that the misconduct element had been addressed by the 2024 Tribunal and therefore he had not provided any more information or documentation regarding that.

86. XXX

### The Relevant Legal Principles

87. The Tribunal reminded itself that the decision in respect of impairment is a matter for the Tribunal's judgement alone. The Tribunal bore in mind that, as per the case of *Abrahaem*, at a review hearing the onus is upon the doctor to satisfy it that he is safe to return to unrestricted practice.

88. This Tribunal must determine whether Dr O'Flynn's fitness to practise is impaired today, taking into account Dr O'Flynn's conduct XXX at the time of the events and any relevant factors since then, such as whether the matters are remediable, have been remedied and are highly unlikely to be repeated.

89. The Tribunal bore in mind that whilst there is no statutory definition of impairment, it is assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 927 Admin, that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

- 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 and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

90. The Tribunal was mindful of the need to take into account the overarching objective to protect the public, including to:

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

### The Tribunal's Determination on Impairment

## Misconduct

91. The Tribunal first considered whether Dr O'Flynn's fitness to practise is currently impaired by reason of his misconduct. The Tribunal accepted that Dr O'Flynn's misconduct was limited to one occasion of dishonesty and had arisen from poor judgement XXX.

92. The Tribunal noted that Dr O'Flynn had not provided any form of remediation evidence in relation to the 2024 Tribunal's finding of misconduct. However, the Tribunal considered that from his oral evidence that Dr Flynn had moved slightly from his position at the 2024 hearing.

93. The Tribunal was of the view that although Dr O'Flynn is entitled to disagree with the misconduct findings of the 2024 Tribunal, it was concerned that there was no acknowledgement of any fault from him at all. The Tribunal noted that Dr O'Flynn said that he felt that the misconduct had been settled by the 2024 Tribunal XXX. The Tribunal considered that this demonstrated that Dr O'Flynn did not appreciate the seriousness of the 2024 Tribunal's misconduct finding.

94. The Tribunal was not satisfied that Dr O'Flynn had any insight into why the Service Line Manager and Clinical Director would make statements to the GMC other than for patient welfare. The Tribunal noted that Dr O'Flynn distanced himself from those statements and still maintained that the witnesses had made an error or that what he had said was misconstrued.

95. The Tribunal reminded itself that Dr Flynn had been a locum consultant at the time of the index events and had to be dismissed which would have impacted on patient care and his professional colleagues. The Tribunal also noted that Dr O'Flynn's behaviour had caused a number of his professional colleagues to raise concerns which would have caused disturbance in the work environment. The Tribunal was concerned that Dr O'Flynn did not demonstrate remorse for his actions or understanding of the impact of his behaviour on patient care, his professional colleagues or the profession. The Tribunal concluded that Dr O'Flynn did not take these factors sufficiently seriously and did not demonstrate any insight into them.

96. The Tribunal concluded that without evidence of remediation, insight or recognition of his misconduct it could not be satisfied that there would be no future repetition. However, it accepted the GMC's submission that the risk was low.

97. In all the circumstances, the Tribunal therefore determined that Dr O'Flynn's fitness to practise remains impaired by reason of misconduct.

XXX

98. XXX

99. XXX

100. XXX

101. XXX

102. XXX

103. XXX

104. XXX

105. XXX

106. XXX

#### Determination on Sanction - 08/10/2025

1. Having determined that Dr O'Flynn's fitness to practise is impaired by reason of misconduct XXX, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to Dr O'Flynn's registration.

#### The Evidence

2. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing where relevant to reaching a decision on what action, if any, it should take with regard to Dr O'Flynn's registration.

#### Submissions

##### On behalf of the GMC

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3. Ms Laura Barbour, Counsel on behalf of the GMC, submitted that the appropriate and proportionate sanction at this stage of review is one of conditions of practice.

4. Ms Barbour invited the Tribunal to formulate a set of conditions to include supervision of Dr O'Flynn's medical practice, XXX.

5. Ms Barbour directed the Tribunal to the Sanctions Guidance (SG) and submitted that the main reason to impose a sanction is to protect the public. She stated that choosing a sanction must be a proportionate approach and a balancing exercise, balancing patient safety, public interest and the doctor's interests. She reminded the Tribunal that the interests of any individual doctor must come second to the public they serve.

6. Ms Barbour drew the Tribunal's attention to relevant paragraphs of the SG that deal with the imposition of conditions and provide guidance on mitigating and aggravating factors.

7. Ms Barbour submitted that in the Tribunal's previous determination the impairment stage of this review hearing, it had determined that Dr O'Flynn does not have the adequate level of insight a Tribunal would hope to see. She submitted that the Tribunal may find this factor to be an aggravating one.

8. Ms Barbour further stated that Dr O'Flynn has not demonstrated that he accepts responsibility for his actions and that he has not understood the seriousness of his behaviour. She drew the Tribunal's attention to paragraph 95 of its impairment determination:

*'The Tribunal was concerned that Dr O'Flynn did not demonstrate remorse for his actions or understanding of the impact of his behaviour on patient care, his professional colleagues or the profession.'*

9. XXX

10. Ms Barbour submitted that given that there is some progress made by Dr O'Flynn in terms of insight and in relation to keeping his clinical knowledge and skills up to date, the Tribunal may consider a period of 12-months conditional registration would be an appropriate and proportionate sanction.

11. XXX

12. Ms Barbour stated that imposing conditions would afford Dr O'Flynn an opportunity to gather evidence to XXX and address the concerns identified during these proceedings. She

concluded that the GMC's view is that a period of 12-months conditional registration would be the appropriate sanction in this case.

Dr O'Flynn

13. Dr O'Flynn submitted that he did not object to Ms Barbour's submissions and that he was willing to comply with any requirements which the Tribunal might consider appropriate.

14. XXX

15. XXX

16. XXX

17. In relation to the misconduct element of his case, Dr O'Flynn submitted that he still takes the view that there were gross differences in the witness statements given and he invited the Tribunal to go back over the witness statements to understand what he meant in this regard.

18. Dr O'Flynn stated that he was not unhappy about being subject to restrictions XXX. He concluded by stating that there were no clinical concerns in his case and by reminding the Tribunal that XXX.

**The Tribunal's Determination**

19. The Tribunal's decision as to the appropriate sanction to impose on Dr O'Flynn's registration, if any, is a matter for the Tribunal exercising its independent judgment. In reaching its decision, the Tribunal should take account of the Sanctions Guidance (February 2024) ('SG') and the overarching objective of S1 of The Medical Act 1983.

20. In reaching its decision, the Tribunal should have regard to the principle of proportionality, balancing Dr O'Flynn's interests with those of the public. Throughout its deliberations the Tribunal should bear in mind that the purpose of a sanction is not to punish a doctor, although a sanction may have a punitive effect.

21. The Tribunal must also bear in mind that in deciding what, if any, sanction to impose, it should consider all the sanctions available, starting with the least restrictive and consider each sanction in ascending order until the overarching objective is met.

Aggravating & Mitigating Factors

22. In reaching its decision, the Tribunal first considered the aggravating and mitigating factors present in this case.

23. The Tribunal considered the following to be aggravating factors in Dr O'Flynn's case:

- Dr O'Flynn's continued lack of sufficient insight into the misconduct element of these proceedings;
- XXX;
- XXX.

24. The Tribunal also identified the following mitigating factor:

- Dr O'Flynn's developing insight XXX.

**No action**

25. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to take no action and revoke the current order on Dr O'Flynn's registration.

26. The Tribunal considered that there were no exceptional circumstances in this case which could justify it taking no action.

27. The Tribunal determined that given its findings that to take no action would be neither appropriate nor proportionate and would fail to uphold the statutory overarching objective.

**Conditions**

28. The Tribunal next considered whether it would be appropriate to impose conditions on Dr O'Flynn's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable. In doing so, it had regard to the following paragraphs of the SG:

*'80 In many cases, the purpose of conditions is to help the doctor to deal with their health issues and/or remedy any deficiencies in their practice or knowledge of English,*

*while protecting the public. In such circumstances, conditions might include requirements to work under supervision.*

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*

...

XXX

29. The Tribunal had regard to the over-arching objective, which serves to:

- (a) to protect, promote and maintain the health, safety and well-being of the public,*
- (b) to promote and maintain public confidence in the medical profession, and*
- (c) to promote and maintain proper professional standards and conduct for members of that profession.*

30. It took the view that a period of carefully formulated conditions could uphold the over-arching objective and protect the public and the public interest. Such conditions could

ensure that Dr O'Flynn is able to practise safely XXX and that the public is protected from any residual risk.

31. In all the circumstances, the Tribunal concluded that a period of conditional registration is the proportionate sanction to impose in this case and is necessary to meet the needs of all three limbs of the overarching objective

32. The Tribunal therefore determined to impose the following conditions:

*The following conditions are not confidential and will be published:*

1. *He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:*
  - a *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 of his employer and any contracting body, including his direct line manager*
  - c *any organisation where he has practising privileges and/or admitting rights*
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 7*
  - 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:*

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- 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 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*
6. *He must get the approval of the GMC before working in a non-NHS post or setting.*
7. *He must personally ensure the following persons are notified of the conditions listed at 1 to 6:*
- a     *his responsible officer (or his nominated deputy)*
- b     *his 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 of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify this person, they must contact the GMC for advice before working for that organisation.*
- c     *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).*

XXX

33. The Tribunal was mindful that any decision it makes must be proportionate. Having determined that it was possible to formulate conditions of practice which will provide the necessary safeguards, the Tribunal considered that a further period of suspension would be disproportionate.

34. In determining the length of the order of conditions, the Tribunal had regard to the SG. It considered that a period of 18-months was the appropriate period as it would give Dr O'Flynn the time to return to practice and seek suitable employment whilst complying with these conditions of practice, as well as providing him with time to provide objective evidence as to XXX in advance of the review hearing which the Tribunal intends to direct will take place before the expiry of this order.

Review

35. The Tribunal determined that a review hearing was also necessary in this case. A review hearing will be convened shortly before the end of the period of conditions.

36. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr O'Flynn to demonstrate how he has developed insight into the misconduct element of these proceedings. The Tribunal would expect Dr O'Flynn to provide:

- XXX;
- Evidence he has kept his clinical knowledge and skills up to date;
- Any other information he thinks may assist a reviewing Tribunal.

37. The MPTS will send Dr O'Flynn a letter informing him of his right of appeal and when the direction and the new sanction will come into effect.

38. The current suspension will remain in place during the appeal period.

39. That concludes this case.

ANNEX A – 04/09/2025

### Extension of current suspension order

1. The Tribunal had retired to consider its decision on impairment of fitness to practise but had not completed its decision. Given the lateness of the hour, the Tribunal raised the question of adjourning the hearing part heard. The Tribunal determined that it would not have sufficient time to conclude the hearing in the time remaining today. As such, the Tribunal sought submissions on the question of extending the current sanction.

### Submissions

#### Submissions on behalf of the GMC

2. Ms Gilsenan, Counsel, stated that it was entirely appropriate for the Tribunal to consider the issue of impairment and have the time it required to reach a decision. She stated that she did not have any submissions opposing an order to extend the current suspension. Ms Gilsenan reminded the Tribunal that the current suspension expires on 22 September 2025. She asked that the suspension was extended to the earliest available date that this Tribunal can reconvene, as this would be in the interest of justice and the fair disposal of this Tribunal's discretion.

#### Submissions on behalf of Dr O'Flynn

3. Dr O'Flynn said that he had no objection to the suspension being extended. He asked if the Tribunal would allow him during that time to submit more information from XXX.

#### GMC response

4. Ms Gilsenan submitted that in terms of the rules, the Tribunal was in private session considering its decision and therefore no further evidence could be accepted for consideration at the impairment stage. She said that this Tribunal is making its decision based on the evidence that has been provided today. She submitted that any further evidence or information that is provided by Dr O'Flynn may be relevant for the sanction stage, if the Tribunal find impairment and then move on to that sanction stage.

### Tribunal's Decision

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5. The Tribunal did not have sufficient time to conclude the hearing in the time remaining today. As such, it determined to adjourn this hearing part heard.
6. The Tribunal noted that the order of suspension on Dr O'Flynn's registration is due to expire on 22 September 2025.
7. The Tribunal determined to extend the current order of suspension for a period of three months, by exercising its powers under Section 35D(5)(a) of the Medical Act 1983, as amended. It determined that such an extension was necessary and proportionate in the circumstances and would also allow for any unanticipated events.
8. The MPTS shall endeavour to relist the reconvened review hearing as soon as is practicable.
9. The MPTS will send Dr O'Flynn a letter informing him of his right of appeal and when the extended suspension will come into effect. The current order of suspension will remain in place during any appeal period.
10. The hearing is adjourned part heard.