

**PUBLIC RECORD****Dates:** 01/09/2025 - 03/09/2025

**Doctor:** Dr Oliver SMITH

**GMC reference number:** 7944296

**Primary medical qualification:** BM BS 2022 University of Southampton

Type of case	Outcome on facts	Outcome on impairment
New - Conviction	Facts relevant to impairment found proved	<b>Impaired</b>

**Summary of outcome**

Erasure  
Immediate order imposed

**Tribunal:**

Legally Qualified Chair	Ms Rosemary Rollason
Registrant Tribunal Member:	Dr Stephen Clark, Dr Suzanne Joels
Tribunal Clerk:	Ms Fiona Johnston

**Attendance and Representation:**

Doctor:	Not present, not represented
GMC Representative:	Ms Charlotte Rimmer, Counsel

**Attendance of Press / Public**

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

## Overarching Objective

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

## Determination on Facts - 01/09/2025

### Background

1. Dr Smith qualified in 2022 from the University of Southampton. At the time of the events, Dr Smith was practising as a Foundation Year 1 trainee with provisional GMC registration, under NHSE Education Yorkshire and Humber.
2. The allegation that has led to Dr Smith's hearing can be summarised as that, on 20 September 2024, at Bradford Magistrates' Court, Dr Smith was convicted of making indecent photographs of children.
3. It is further alleged that on 29 October 2024, at Bradford Crown Court, Dr Smith was sentenced to a community order, forfeiture of his mobile phone for destruction, a requirement to register with police for five years and a sexual harm prevention order for five years.
4. On 4 November 2022, an internet-based application, Discord, was made aware of an upload of an indecent image of a child to the Internet using its platform. This information was passed to West Yorkshire Police who conducted research on the details provided. The phone number used to access the platform was shown to be registered to Dr Smith. The IP address of the computer used to log into the application was also found to be registered to Dr Smith's home address.
5. The initial concerns were raised with the GMC on 5 July 2023 by Dr Smith's Responsible Officer at the Trust where he was working. The GMC was advised that Dr Smith had been arrested on 6 April 2023 and had not, at that stage, been charged with any offences.
6. On 28 May 2024, Dr Smith informed the GMC that he had resigned from his role at the Trust. Following a period of investigation, the police confirmed that Dr Smith had been charged with an offence and given a court date in September 2024.
7. On 18 September 2024, before the first court date, an Interim Orders Tribunal ('IOT') was held, during which Dr Smith was made subject of an 18-month interim suspension order.

8. Dr Smith attended court on 20 September 2024 and was convicted, having pleaded guilty to the two offences as set out in the Allegation. The sentencing hearing took place on 29 October 2024.

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

9. The Tribunal granted the GMC's application, made pursuant to Rules 15, 40 and 31 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that notice of this hearing had been properly served on Dr Smith and that it would be appropriate to proceed with the hearing in his absence. The Tribunal's full decision on the application is included at Annex A.

10. The Tribunal also agreed, pursuant to Rule 41XXX that some parts of the hearing would be held in private session.

### The Allegation and the Doctor's Response

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

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

1. On 20 September 2024, at Bradford Magistrates' Court, you were convicted of:
  - a. between 10 March 2022 and 24 October 2022, making indecent photographs, namely two moving and one still Category C images of a child;  
**To be determined**
  - b. between 10 March 2022 and 24 October 2022 making indecent photographs, namely five moving and one still Category A images, of a child.  
**To be determined**
2. On 29 October 2024, at Bradford Crown Court, you were sentenced to:
  - a. a community order with the following requirements to be completed by 28 October 2026:
    - i. to participate in a sex accredited programme for 90 days  
**To be determined**
    - ii. to participate in any rehabilitation activity requirement as directed;  
**To be determined**
    - iii. to carry out unpaid work for 200 Hours within the next 12 months;  
**To be determined**
  - b. forfeit your mobile phone for destruction under Section 50 Anti-social Behaviour, Crime and Policing Act 2014; **To be determined**
  - c. a requirement to register with police in accordance with the Sexual Offences Act 2003 from 20 September 2024 for five years; **To be determined**

- d. a sexual harm prevention order made on conviction for five years.

**To be determined**

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

**Witness Evidence**

12. Dr Smith declined to attend his hearing and did not provide a witness statement. No witnesses were called on behalf of the GMC.

13. The Tribunal had regard to the documentary evidence related to the conviction, as provided by the parties. This evidence included but was not limited to:

- Police investigation, dated 2 September 2024;
- Certificate of Conviction, dated 29 October 2024;
- Court sentencing remarks, dated 29 October 2024;
- Letter sent from the Medical Protection Society to the GMC on behalf of Dr Smith, dated 18 August 2025.

**The Tribunal's Approach**

14. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Smith does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e., whether it is more likely than not that the events occurred.

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

**34...**

*(3) Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed.*

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

*(5) The only evidence which may be adduced by the practitioner in rebuttal of a conviction or determination certified in the manner specified in paragraph (3) or (4) is evidence for the purposes of proving that he is not the person referred to in the certificate or extract.*

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

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

### Paragraph 1(a) and 1(b)

17. The Tribunal had regard to the Certificate of Conviction dated 29 October 2024 and was satisfied this was a genuine certificate that recorded Dr Smith was duly convicted of the offences as set out in Paragraph 1(a) and 1(b) of the Allegation.

18. The Tribunal bore in mind the police report in which Dr Smith made admissions to the offences and also took into account that Dr Smith had attended court and pleaded guilty to the offences on 20 September 2024, as stated on the certificate.

19. The Tribunal also had regard to the letter provided by Dr Smith's legal representatives dated 18 August 2025, indicating that Dr Smith accepted he had been convicted of these offences. Therefore, there was no doubt in the Tribunal's mind that the Certificate of Conviction related to Dr Smith and it concluded the GMC had discharged its burden of proof.

20. Accordingly, the Tribunal found paragraph 1 of the Allegation proved in its entirety.

### Paragraph 2(a)-(d)

21. The Tribunal again had regard to the Certificate of Conviction, dated 29 October 2024, which also set out the sentences passed and ancillary orders that formed part of that sentence. The Tribunal noted that this accurately reflected the particulars of Paragraph 2(a)-(d) of the Allegation. Therefore, the Tribunal was satisfied that this was the sentence imposed on Dr Smith on 29 October 2024 and concluded the GMC had discharged its burden of proof.

22. Accordingly, the Tribunal found Paragraph 2 of the Allegation proved in its entirety.

## The Tribunal's Overall Determination on the Facts

23. The Tribunal has determined the facts as follows:

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

1. On 20 September 2024, at Bradford Magistrates' Court, you were convicted of:
  - a. between 10 March 2022 and 24 October 2022, making indecent photographs, namely two moving and one still Category C images of a child; **Determined and found proved**
  - b. between 10 March 2022 and 24 October 2022 making indecent photographs, namely five moving and one still Category A images, of a child. **Determined**

**and found proved**

2. On 29 October 2024, at Bradford Crown Court, you were sentenced to:
  - a. a community order with the following requirements to be completed by 28 October 2026:
    - i. to participate in a sex accredited programme for 90 days;  
**Determined and found proved**
    - ii. to participate in any rehabilitation activity requirement as directed;  
**Determined and found proved**
    - iii. to carry out unpaid work for 200 Hours within the next 12 months;  
**Determined and found proved**
  - b. forfeit your mobile phone for destruction under Section 50 Anti-social Behaviour, Crime and Policing Act 2014; **Determined and found proved**
  - c. a requirement to register with police in accordance with the Sexual Offences Act 2003 from 20 September 2024 for five years; **Determined and found**
  - d. a sexual harm prevention order made on conviction for five years.  
**Determined and found proved**

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

#### **Determination on Impairment - 02/09/2025**

1. This determination will be handed down in private. However, as this case concerns Dr Smith's conviction, a redacted version will be published at the close of the hearing.
2. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved, as set out before, Dr Smith's fitness to practise is impaired by reason of his conviction for criminal offences.

#### **The Evidence**

3. The Tribunal has taken into account all of the evidence received during the facts stage of the hearing. For this stage of the hearing, it also had regard to the following:
  - Dr Smith's reflective statement prepared for IOT hearing, dated 18 September 2024;
  - Dr Smith's Rule 7 comments, dated 2 December 2024;
  - Letter from Safer Lives to Court, dated 25 July 2023;
  - XXX;
  - XXX;

- Extract of Dr Smith’s medical records, various dates.

## Submissions

4. On behalf of the GMC, Ms Rimmer submitted that the GMC’s position was that Dr Smith’s fitness to practise is impaired by virtue of his criminal conviction.
5. Ms Rimmer acknowledged that Dr Smith had accepted that his fitness to practise is impaired and that he had emphasised he had no wish to resume practise. Ms Rimmer submitted that, nevertheless, the decision as to impairment required careful consideration by the Tribunal.
6. Ms Rimmer submitted that the Tribunal may be assisted by the guidance provided by Dame Janet Smith in the *Fifth Shipman Enquiry Report*, as adopted by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin, namely:

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

- a. Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. Has in the past and/or is liable in the future to act in such a way that their integrity can no longer be relied upon.’*

Ms Rimmer submitted that in this case, limbs b and c were engaged.

7. Ms Rimmer also drew the Tribunal’s attention to the case of *Martin v GMC* [2011] EWHC 3204 (Admin), in which it was stated that it may be helpful for the Tribunal to consider *Good Medical Practice* (‘GMP’) to identify what standards of behaviour are expected of registered of doctors and what constitutes “*fitness to practise*”.

8. Ms Rimmer then referred the Tribunal to domain 4 and paragraph 81 of GMP (January 2024 version) and submitted that Dr Smith's conviction amounted to a significant departure from these standards:

*4 You must follow the law, our guidance on professional standards, and other regulations relevant to your work.*

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

9. Ms Rimmer submitted that Dr Smith's conviction brought the medical profession into disrepute, involving grave matters that seriously undermined public trust in the profession. Ms Rimmer stated that any criminal conviction has the scope to do this, but this was a serious offence in its own right. Ms Rimmer submitted that the seriousness was elevated by the nine separate images or videos involved, and by the offending having taken place over a seven month period, from March – October 2022. She submitted that this was not spontaneous offending, where the practitioner immediately regretted their behaviour and sought help. Rather, the behaviour was detected by the online platform and the police. Ms Rimmer submitted that six of the images were Category A, the most serious grade that can be attributed to an indecent image. This was reflected by the usual starting point for sentencing being 12 months' imprisonment for a single Category A image.

10. Ms Rimmer submitted that the seriousness of the conviction was reflected in particular by the imposition by the sentencing Judge of a sexual harm prevention order and what amounted to intensive sentencing requirements attached to the community order, indicating the court's assessment of a significant ongoing risk. Ms Rimmer further submitted that it was obvious but important to point out that this type of offence showed disregard for the child victim harmed in the creation of such an image or video. However, in the context of these proceedings, even more crucially, an offence of this nature is underpinned by a sexual interest in children which, Ms Rimmer submitted, is fundamentally incompatible with fitness to practise.

11. Ms Rimmer told the Tribunal that although Dr Smith had indicated that he accepts his fitness to practise is impaired, it was right that the Tribunal should take into account all the relevant information which Dr Smith and his representatives had put forward to show Dr Smith's history and the work he had done post-conviction with the view to rehabilitating himself

12. Ms Rimmer referred the Tribunal to the letter from Safer Lives. She submitted that this confirmed Dr Smith had participated in five guided sessions, including work on understanding the experience of child victims and impact of abusive behaviour, and

understanding individual risk factors towards sexual offending and planning to manage or change those risks. Ms Rimmer submitted these were the most important factors as far as these proceedings were concerned. However, whilst it was positive that Dr Smith had engaged in this voluntary programme, which was undertaken separately from any sentencing process, there was a real question as to the genuine benefit such a programme could offer to a qualified medical practitioner with the education and expertise of Dr Smith. One would expect the pre-existing education and expertise of Dr Smith would already have provided him with the skills to understand the experience of child victims.

13. Ms Rimmer drew the Tribunal’s attention to the letter from Mr B, specialist in working with sexual offenders. Ms Rimmer submitted that it was obvious that Mr B has significant experience and training in this field, especially with the charity StopSo. Mr B wrote of the issues he explored with Dr Smith, including relationship issues that may have contributed to the offending, vulnerability of children and harmful consequences of sexual abuse, and future risk management issues. Mr B confirmed that as of October 2023, Dr Smith had engaged in 26 privately paid sessions.

14. Ms Rimmer submitted that it was evident from Mr B’s report that Dr Smith had shown a level of candour in these sessions. Dr Smith had shared XXX and wished to explore its possible relevance to his offending.

15. XXX

16. XXX

17. Ms Rimmer noted the reference in the letter from the MPS to the impact of these proceedings XXX. Ms Rimmer further submitted that Dr Smith’s representations and the material regarding his background should be taken into account. However, her submission was that regardless of XXX, the full admissions made by Dr Smith and his engagement with the MPTS process, these representations were seriously counterbalanced by the gravity of the offending and did not impact significantly upon the issue of Dr Smith’s fitness to practise.

18. In conclusion, Ms Rimmer submitted that this was not only a criminal conviction but related to serious sexual offences underpinned by a sexual attraction to children. Dr Smith’s behaviour had undermined patients’ and the public’s trust and breached fundamental tenets of the medical profession. A finding that Dr Smith’s fitness to practise is impaired was necessary to ensure that public confidence in the profession was upheld.

## The Relevant Legal Principles

19. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision in respect of impairment is a matter for the Tribunal's judgement alone.
20. The Tribunal must have regard to the GMC's statutory overarching objective 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.
21. The Tribunal must determine whether Dr Smith's fitness to practise is impaired today, taking into account Dr Smith's conduct at the time of the events and any relevant factors since then, such as whether the conduct in question is capable of remediation, whether it has been remedied and whether there is any likelihood of repetition.
22. The Tribunal must consider the nature and seriousness of the conviction and take into account the sentencing remarks of the court.
23. The Tribunal would be assisted by the guidance provided by Dame Janet Smith in the Report of the Fifth Shipman Enquiry and endorsed in the case of *Grant*, with regard to the features which are likely to indicate current impairment.

## The Tribunal's Determination on Impairment

### Impairment by reason of a conviction

24. The Tribunal had regard to both the April 2013 version of GMP, which was relevant to the dates of commission of the offences in 2022, and to the January 2024 version, which was relevant to the date of the conviction and sentence in September and October 2024. The Tribunal noted the substance of the sections it considered relevant did not significantly change between the two editions.

25. In reaching its determination on impairment, the Tribunal considered that the following paragraphs of GMP (April 2013) were applicable to the offending behaviour:

*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.*

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

In respect of the criminal conviction the Tribunal considered the following paragraph of GMP (2024) was relevant:

*81 You must make sure that your conduct justifies patients’ trust in you and the public’s trust in your profession.*

26. The Tribunal concluded that Dr Smith’s actions which led to his arrest and conviction represented a clear breach of the above paragraphs of GMP and of fundamental tenets of the profession. The Tribunal noted that the Allegation it had found proved did not, according to the details in the certificate of conviction, relate to a single or isolated incident but indicated that Dr Smith accessed images of the sexual abuse of children for an extended period, between 10 March 2022 and 24 October 2022.

27. The Tribunal noted that in total 12 images were found on Dr Smith’s phone and the police report made clear that there were no further images and there was no issue of any distribution of the images.

28. The Tribunal also had regard to the sentencing remarks by Mr Recorder Palmer, dated 29 October 2024 in which he stated:

*‘There are no convictions recorded against you, but the police received information which they followed up. They went to your address at the time; they found you in possession of an iPhone. When, in due course, they were able to search that iPhone, they found indecent images; five moving images of category A; one still and a number of category C, and some others. Not a large number of images.*

*You have to understand, of course, that that is a serious offence. There are victims to offending like that, and there is no way of getting round it, it is horrible offending, but you have, to your credit, pleaded guilty at the first opportunity.*

*I have read the letter that you have written to the court; I’ve read the letter from your father, and all the other documents put before the court about your background and history, and in particular, I’ve read the pre-sentence report in this case, and I bear in mind, when passing sentence, that this offending happened now some two years ago. You have kept out of trouble in that time, and that all goes to your credit, and I can see, as well, the great efforts you have made to straighten yourself out since that offending, and it’s in those circumstances. I’m prepared to follow the recommendation in the pre-sentence report and make, in your case, a two-year community order with ancillary orders that you attend the accredited sexual*

*offending group work programme for no more than 90 days, 40 days activity days and unpaid work in the period of 200 hours.*

*I'm going to make a forfeiture and destruction order in respect of your phone, and having considered the submissions made by your counsel I am going to make a sexual harm prevention order. The reason for that; it seems to me that whilst you've been subject to bail and awaiting sentence, that's a considerable benefit and drive to you, and not being tempted again to look at these images, and the grave danger is, whatever a notification order, temptation can be placed in your way far too easily in the modern world. So I hope the making of that order will not only deter you but assist you in being deterred from looking at such images on the internet, and I think it is just and proportionate that I make such an order. The precise terms of that order are yet to be considered by counsel, and we may be returning to that.*

*Explaining the sentence of the court to you, you know that's a community order. You must cooperate with the probation officer. You must perform 200 hours' unpaid work for the community; that's the punishment aspect of this order. You must do that work where and when directed by the probation officer, and if you fail to do it, you can be separately punished. The other parts of the order are obviously to assist you and to protect the public from any further offending by you.'*

29. The Tribunal had regard to section 35C of the Medical Act 1983 which sets out categories of impairment in sub paragraph (2):

*(2) A person's fitness to practise shall be regarded as "impaired" for the purposes of this Act by reason only of –*

*...*

*(c) a conviction or caution in the British Islands for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;*

30. The Tribunal deliberated carefully on all the evidence and the circumstances surrounding Dr Smith's conviction. It found that the matters giving rise to his conviction would undoubtedly be a source of serious concern to the public and would have a profound impact on public confidence in the medical profession. The Tribunal reminded itself that Dr Smith had been sentenced to a community order, which included a requirement to register with the police in accordance with the Sexual Offences Act 2003 for a period of five years from 20 September 2024. In addition, the sentencing Judge had made a decision to impose a Sexual Harm Prevention Order, which the Tribunal had heard was not an automatic requirement, also for a period of five years. The Tribunal considered this suggested concern about ongoing risk.

31. The Tribunal was of the view that Dr Smith had departed from a number of principles of GMP. In particular, he had breached paragraphs as set out above. Dr Smith had committed an offence that would be viewed as extremely serious by members of the public.

32. The Tribunal concluded that behaviour such as this breached a fundamental tenet of the profession, namely that doctors should be trustworthy and act openly, honestly and with integrity. The Tribunal further concluded that by his actions and subsequent conviction, Dr Smith will have brought the profession into disrepute. Dr Smith's possession of such images would be considered by patients, the public and fellow doctors as deplorable.

Insight, remediation, and risk of repetition

33. The Tribunal considered whether Dr Smith's conduct and resulting convictions were remediable, whether they had been remedied and whether there was any likelihood of repetition. It also considered the level of Dr Smith's insight.

34. The Tribunal considered that Dr Smith's convictions for making three category C indecent images of children and making six category A images would be very difficult to remediate as this type of offending behaviour concerns attitudinal issues.

35. The Tribunal noted that Dr Smith has no previous convictions for any offences. The Tribunal was mindful that Dr Smith pleaded guilty to his offences. It also noted that Dr Smith has complied as far as possible with the criminal sentence orders.

36. Dr Smith has engaged with his regulator in relation to this case and has provided some evidence demonstrating an understanding of the impact of his actions on patients, colleagues, the medical profession, the wider public interest and public confidence in the medical profession. It noted that Dr Smith has enrolled in;

- Safer lives - A program providing private behavioural intervention work for individuals;
- XXX;
- XXX.

37. The Tribunal noted that Dr Smith has taken steps to acknowledge his misconduct and has accepted responsibility for his actions. Dr Smith has expressed remorse and has apologised to those affected by his conduct and to the GMC and the Tribunal. The Tribunal also noted that, at the outset of the GMC investigation, Dr Smith stated that he had no intention of returning to medical practice, nor of maintaining his GMC registration. He wished to seek voluntary erasure from the Medical Register.

38. While the Tribunal took account of the mitigation advanced by Dr Smith, it determined that these matters did not diminish the seriousness of his actions, nor render the offences less grave. The Tribunal accepted that Dr Smith has developed some insight into his behaviour and has sought appropriate help XXX. However, the Tribunal also considered the gravity of the harm caused, noting that children would have been directly harmed in the creation of the material Dr Smith chose to download.

39. The Tribunal determined that, notwithstanding Dr Smith's developing insight and efforts at remediation, his actions were of such seriousness that they remain fundamentally incompatible with the standards expected of a doctor.

40. The Tribunal further found that there remains a risk of repetition of the conduct, given the nature of the offending and the circumstances in which it occurred.

41. The Tribunal concluded that the last three limbs of the test set out by Dame Janet Smith, above, were applicable in this case.

42. In relation to limb b: *'Has in the past and/or is liable in the future to bring the medical profession into disrepute'* – The Tribunal found that Dr Smith's convictions, which included making indecent photographs, namely two moving and one still Category C images of a child, and making indecent photographs, namely five moving and one still Category A images of a child, undoubtedly brought the profession into disrepute. The Tribunal was mindful that Category A images are the most serious level of illegal indecent images of children. The Tribunal considered this limb of the Grant test was applicable.

43. In relation to limb c: *'Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession'* – The Tribunal considered that Dr Smith's convictions breached fundamental tenets of the medical profession. In particular, his criminal conduct breached paragraph 65 of GMP (April 2013). The Tribunal considered this limb of the Grant test was applicable.

44. In relation to limb d' *Has in the past and/or is liable in the future to act in such a way that their integrity can no longer be relied upon.'* – The Tribunal noted that, by breaking the law, Dr Smith had breached a fundamental tenet of the medical profession, namely that doctors must be trustworthy and must act openly, honestly, and with integrity. The nature of the criminal conviction in Dr Smith's case raised issues regarding his integrity. The Tribunal considered that such a breach strikes at the heart of the trust placed in doctors by both patients and the wider public.

45. The Tribunal had regard to the statutory overarching objective.

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

46. It was satisfied that Dr Smith's conduct and conviction engaged all three limbs of Section 1(1B) of the Medical Act 1983. It considered that a member of the public in full knowledge of the facts of the case would be appalled by a doctor acting in that way. Dr Smith has been convicted and sentenced in respect of serious criminal offence. The Tribunal was of the view that given the serious nature of Dr Smith's conviction, public confidence in the profession and in the GMC as its regulator, would be seriously undermined if a finding of impaired fitness to practise were not made.

47. The Tribunal also considered that a finding of impaired fitness to practise was required to declare and uphold proper standards of behaviour and to maintain public confidence in the profession.

48. The Tribunal has therefore determined that Dr Smith's fitness to practise is impaired by reason of his conviction

#### **Determination on Sanction - 03/09/2025**

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

#### **Submissions**

2. On behalf of the GMC, Ms Rimmer submitted that the appropriate sanction in this case is one of erasure.

3. Ms Rimmer referred the Tribunal to various paragraphs in the Sanctions Guidance ('the SG'), in particular paragraphs 109, 119, 151, 152 and 153.

4. Ms Rimmer submitted that in assessing sanction, the Tribunal must take into account the overarching objective of the GMC, to protect the health, safety and well-being of the public, maintain public confidence and promote and maintain proper professional standards and conduct for members of the profession.

5. Ms Rimmer submitted that Paragraph 151 of the SG confirms that sexual offences, including accessing and viewing or other involvement in child sex abuse materials which involve the exploitation or abuse of a child, seriously undermine patients' and the public's trust and confidence in the medical profession and breach a number of the principles set out in GMP.

6. Ms Rimmer referred to Paragraph 152 of the SG which states that taking, making, sharing and possessing an indecent image or pseudo-photograph of a child is illegal and is regarded in society as morally unacceptable. For these reasons, she submitted that the SG confirms that where there is involvement in child sexual abuse materials by a registered doctor, the Tribunal should consider whether the public interest demands that their registration is impacted.

7. Ms Rimmer noted that paragraph 153 of the SG confirms that any conviction for child sexual abuse materials against a registered doctor is a matter of grave concern because it involves such a fundamental breach of the public's trust in doctors and inevitably brings the profession into disrepute. It is therefore highly likely that the only proportionate sanction will be erasure.

8. Referring to the potential outcomes as set out in the SG, Ms Rimmer submitted that this is not a case where there are any exceptional circumstances warranting the Tribunal taking no action against Dr Smith. Further, the imposition of conditions on the doctor's registration would not be appropriate because they would not address the gravity of the offence for which Dr Smith was convicted.

9. Ms Rimmer submitted that suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the Tribunal is satisfied that the behaviour or incident is unlikely to be repeated, and the Tribunal may wish to see evidence that the doctor has taken steps to mitigate his actions. The GMC submitted that contrary to this, in its finding of impairment, the Tribunal concluded that there is a risk of repetition.

10. Ms Rimmer submitted that whilst Dr Smith has taken steps to reduce the risk of repetition and has demonstrated some insight, it is the GMC's position that that is very much counterbalanced by the fact that the Tribunal has found that Dr Smith's conviction constitutes a very serious departure from the standards in GMP.

11. Ms Rimmer submitted that there are a number of aggravating features to the conviction which have already been set out at the impairment stage and there is difficulty in remediating behaviour of this particular character. She noted that the Tribunal has acknowledged in its determination at the impairment stage that this conviction is

underpinned by an attitudinal issue which is much more difficult to remediate than other behaviour. She submitted that the very obvious risk that public confidence in the profession would be seriously damaged if an immediate order was not imposed. Ms Rimmer submitted that taking all of those factors into account, suspension would not achieve the overarching objective.

12. Ms Rimmer's submission was that any of the factors present in paragraph 109 of the SG may indicate that erasure is appropriate, and that Dr Smith's conduct is a particularly serious departure from the principles set out in GMP, where the behaviour is difficult to remediate.

13. With regards to paragraph 119 of the SG, Ms Rimmer reminded the Tribunal that as part of the criminal sentence, Dr Smith is still subject to a Sexual Harm Prevention Order and police notification requirement for a period of five years from 20 September 2024. She submitted that Dr Smith has not yet completed his sentence and this is incompatible with continued registration.

14. Ms Rimmer submitted that Dr Smith's conviction is a matter of grave concern because it involves such a significant breach of the public's trust. If Dr Smith were to remain on the register, public trust would be seriously undermined. In all the circumstances, Ms Rimmer invited the Tribunal to erase Dr Smith's name from the medical register.

#### The Relevant Legal Principles

15. The Tribunal had regard to the submissions made by Ms Rimmer, but was mindful that it is not bound by them. The decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgment.

16. In reaching its decision the Tribunal took account of the SG and the GMC's statutory overarching objective to protect the public.

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

18. The Tribunal took account of Paragraph 119 of the SG which provides that as a general principle, where a doctor has been convicted of a serious criminal offence, they should normally not be permitted to resume unrestricted practice until they have completed their sentence. Only circumstances which plainly justified a different course should permit otherwise. This reflected the guidance from the case of *CRHP v General Dental Council and*

*Fleischmann [2005] EWHC 87*, as confirmed in the case of *PSA for Health and Social Care v General Dental Council (Patel) [2024] EWHC 243 (Admin)*.

19. In this case, a number of the elements of the sentence imposed on the doctor by the criminal court in 20 September 2024 are still in effect: in particular the Sexual Harm Prevention Order and the police notification requirement, both of which were imposed for periods of 5 years.

20. The Tribunal took into account the principle set out in the case of *Bolton v Law Society [1994] 1 WLR 512*, that the reputation of the profession is more important than the fortunes of any individual member. The essential issue remained maintaining public confidence in the professions. Matters of personal mitigation, which do not concern the seriousness of the underlying conduct or its impact upon public confidence, are therefore of less weight.

21. Before deciding what action, if any, to take in respect of Dr Smith's registration, the Tribunal considered the aggravating and mitigating factors present in this case.

#### The Tribunal's Determination on Sanction

22. The Tribunal first identified what it considered to be the mitigating and aggravating factors in this case.

#### Mitigating Factors

23. The Tribunal had regard to paragraphs 24-49 of the SG and bore in mind the mitigating factors the GMC had set out in their submissions. The Tribunal concluded the following mitigating factors were present:

- The Doctor has no previous findings in relation to the General Medical Council or before a previous MPT;
- The Doctor has engaged with the GMC proceedings although he decided not to attend this hearing;
- He entered a guilty plea at the first opportunity and has admitted his offences and the GMC allegations throughout ;
- He has complied with the community order imposed by the criminal court;
- The Doctor has expressed remorse and apologised for his actions.
- He has sought guidance and has voluntarily engaged with XXX psychotherapy from an early stage in order to explore the underlying issues in relation to his offending behaviour;
- He has shown that he is in the process of developing insight into his past conduct.

### Aggravating factors

24. The Tribunal had regard to paragraphs 50-59 of the SG and took into account the aggravating factors set out by the GMC in their submissions:

- The very serious nature of the sexual offence in this case;
- The number of images, including some moving images and their categorisation, six images being in the most serious category, A;
- The information indicating that the accessing of the images took place over a number of months;
- The Doctor's conviction was not a victimless crime, the offending behaviour involved the physical and psychological abuse of children.
- The Doctor's intentional seeking out child sexual abuse material.
- The Doctor is still subject to a sexual harm prevention order and police notification for five years.

25. Having balanced the aggravating and mitigating features identified in this case, the Tribunal determined that the aggravating features were of more consequence. The critical factor was the gravity of the criminal offence.

26. The Tribunal bore in mind all the aggravating and mitigating factors throughout its deliberations as to the appropriate and proportionate sanction. The Tribunal considered each sanction in ascending order of severity, starting with the least restrictive.

### No action

24. The Tribunal first considered whether to conclude the case by taking no action. The Tribunal considered that taking no action was inappropriate as Dr Smith's practice was impaired and there were no exceptional circumstances. The conviction and subsequent sentence imposed related to very serious offences. The Tribunal noted that Dr Smith is subject to a Sexual Harm Prevention Order and the police notification requirement, both of which were imposed for periods of 5 years. It would not be sufficient, proportionate, or in the public interest to conclude this case by taking no action.

### Conditions

27. The Tribunal considered whether it would be sufficient to impose conditions on Dr Smith's registration.

28. The Tribunal took account of paragraph 80 of SG which highlights that, in many cases, the purpose of conditions is to help the doctor remedy any deficiencies in their practice, while protecting the public. Further, the Tribunal noted paragraph 81 of SG which confirms that conditions might be most appropriate in cases involving issues around the doctor's health, performance or where there is evidence of shortcomings in areas of the doctor's practice.

29. The Tribunal took into account paragraph 82 of 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 that 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.'*

30. It also had regard to paragraph 85, which states:

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

31. The Tribunal considered that the conduct underlying the offending behaviour in this case concerns attitudinal issues which are difficult to remedy and where it is less likely that conditions would be workable or would meet the purposes of the overarching objective. The Tribunal further considered that an order of conditions would not maintain public confidence in the profession and uphold proper professional standards given the very serious nature of the criminal offences

32. Taking account of the aggravating factors found in this case, as set out above, the Tribunal determined that conditions would not be sufficient to protect the public, maintain public confidence in the profession and uphold proper professional standards. Further, the Tribunal determined that the imposition of conditions would not be sufficient to mark the seriousness of Dr Smith's conviction or address the Tribunal's findings on impairment.

### Suspension

33. In considering whether to impose a period of suspension on Dr Smith's registration, the Tribunal had regard to paragraphs 91, 92, 93, and 97(a), (f) and (g) of the SG which provide:

*‘91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*

*‘92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).’*

34. The Tribunal recognised that the most significant issue for it in this case will be whether Dr Smith’s conduct is fundamentally incompatible with continued registration. However, it considered the further paragraphs of the SG insofar as they are relevant to an order of suspension.

*‘93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions.*

...

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

*a. A serious breach of Good medical practice, but where the doctor’s misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors*

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

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

35. The Tribunal had regard to its findings that Dr Smith had breached a number of paragraphs of GMP including paragraphs 1, 65 and 81 and its finding that his underlying conduct and conviction breached a fundamental tenet of the profession. The Tribunal was satisfied that the identified breaches represented a significant departure from GMP.

36. The Tribunal was mindful that suspension may be appropriate where there has been acknowledgment of fault and where the Tribunal was satisfied that there was a low risk of repetition. It noted that Dr Smith had shown some insight into his misconduct in relation to the matters before the Tribunal, he has provided recent evidence of steps he had taken to remediate his conviction. Dr Smith has engaged with XXX; he has also enrolled on Safer Lives. However, the Tribunal had determined that a risk of repetition remained, including an ongoing risk to public and patient safety.

37. The Tribunal had regard to paragraph 152 of the SG which states:

*‘152 Taking, making, sharing and possessing an indecent image or pseudo photograph of a child is illegal and regarded in UK society as morally unacceptable. For these reasons, where there is any involvement in child sex abuse materials by a registered doctor the tribunal should consider whether the public interest demands that their registration be affected.’*

38. The Tribunal was of the view that the conviction for sexual offences which involved indecent images of children was so serious that it was fundamentally incompatible with continued registration.

39. The Tribunal concluded, given the seriousness of Dr Smith’s conduct which led to his conviction, and risk of repetition, suspension was not an appropriate sanction. It would not protect the public nor meet the statutory overarching objective.

#### Erasure

40. Having concluded that Dr Smith’s conduct and conviction are fundamentally incompatible with continued registration, the Tribunal nonetheless went on to consider whether the sanction of erasure was appropriate and proportionate.

41. Having considered the SG in relation to erasure, the Tribunal was of the view that the following paragraphs were applicable:

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

*a A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.*

.....

*f Offences of a sexual nature, including involvement in child sex abuse materials (see further guidance below at paragraphs 151 - 159).*

*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.*

*151 Any doctor who has been convicted of, or has received a caution for, a sexual offence listed in Schedule 3 to the Sexual Offences Act 2003 must notify the police (register) under section 80 of the Sexual Offences Act 2003 and may need to undertake a programme of rehabilitation or treatment. Sexual offences include accessing and viewing, or other involvement in, child sex abuse materials, which involves the exploitation or abuse of a child. These offences seriously undermine patients' and the public's trust and confidence in the medical profession and breach a number of principles set out in Good medical practice...*

*152 Taking, making, sharing and possessing an indecent image or pseudo-photograph of a child is illegal and regarded in UK society as morally unacceptable. For these reasons, where there is any involvement in child sex abuse materials by a registered doctor the tribunal should consider whether the public interest demands that their registration be affected.*

*153 While the courts distinguish between degrees of seriousness, any conviction for child sex abuse materials against a registered doctor is a matter of grave concern because it involves such a fundamental breach of the public's trust in doctors and inevitably brings the profession into disrepute. It is therefore highly likely that, in these cases, the only proportionate sanction will be erasure...*

*154 The tribunal should be aware that any conviction relating to child sex abuse materials will lead to registration as a sex offender and possible inclusion on the Children's Barred List by the Disclosure and Barring Service under the Safeguarding Vulnerable Groups Act 2006 (as amended). The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration...'*

42. The Tribunal had already determined that Dr Smith's actions amounted to serious misconduct. The Tribunal was of the view that Dr Smith's actions caused harm to young vulnerable children and was also satisfied that Dr Smith's underlying conduct engaged each

of the three principles of the overarching objective. Dr Smith's offending behaviour seriously undermined patients' and the public's trust and confidence in the medical profession and is fundamentally incompatible with continued registration as a medical practitioner. In addition, Dr Smith is subject to a Sexual Harm Prevention Order and to police notification requirements, both for a period of five years.

43. In conclusion the Tribunal considered that a sanction of erasure is the only sanction that would protect patients, mark the seriousness of the conviction, maintain public confidence in the profession, the regulator and the regulatory process and meet each of the three limbs of the statutory overarching objective.

44. The Tribunal has therefore directed that Dr Smith's name be erased from the Medical Register.

#### **Determination on Immediate Order - 03/09/2025**

25. Having determined that Dr Smith's name be erased from the Medical Register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Smith's registration should be subject to an immediate order.

#### **Submissions**

##### On behalf of the GMC

26. On behalf of the GMC, Ms Rimmer submitted that an immediate order of suspension should be imposed in this case. She referred the Tribunal to paragraph 172, 173, 174 and 178 of the SG.

27. On behalf of the GMC, Ms Rimmer took the Tribunal through the relevant paragraphs of the SG applicable to when an immediate order may be appropriate. She submitted that an immediate order is necessary for the protection of the public and is otherwise in the public interest, and to meet the requirements of the overarching objective.

28. She submitted that the interim suspension order currently in place should therefore be revoked.

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

29. The Tribunal has taken account of the relevant paragraphs of the Sanctions Guidance (February 2024) ('SG'), in particular paragraphs 172, 173, 174 and 178 as set out below:

*172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.*

*173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where  
immediate action must be taken to protect public confidence in the medical profession.*

*174 Doctors and their representatives sometimes argue that no immediate order should be made as the doctor needs time to make arrangements for the care of their patients before the substantive order for suspension or erasure takes effect.*

*178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.*

30. In reaching its determination, the Tribunal considered the submissions made on behalf of the GMC and the relevant paragraphs of the SG.

31. The Tribunal determined that, given its findings that Dr Smith poses a risk to the public and that erasure was in the public interest, it would be appropriate to impose an immediate order of suspension.

32. The Tribunal considered that this was necessary in light of the risk of repetition identified, and in order to maintain public confidence and uphold proper professional standards. It concluded that it would be wholly inappropriate for Dr Smith to be allowed to practise unrestricted for the appeal period, or the duration of any potential appeal.

33. This means that Dr Smith's registration will be suspended from the date on which notification of this decision is deemed to have been served upon him. The substantive

direction, as already announced, will take effect 28 days from that date, 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.

34. The existing interim order will be revoked when the immediate order of suspension takes effect.

ANNEX A – 01/09/2025

**Determination: Service and proceeding in absence**

35. This determination will be handed down in private. However, as this case concerns Dr Smith's conviction, a redacted version will be published at the close of the hearing.

36. Dr Smith was neither present nor represented at the hearing. The Tribunal therefore considered whether to continue with the hearing in his absence.

**Submissions**

37. The Tribunal was provided with a copy of a Service bundle from the GMC. This included:

- Screenshots of the contact information held for Dr Smith by the GMC, namely his registered postal address and email address;
- Email from the GMC to Dr Smith, dated 17 July 2025, enclosing Rule 34(9) Letter, Notice of Allegation ('NoA'), draft hearing bundle and draft hearing bundle index;
- Email from Dr Smith to the GMC, dated 18 July 2025, confirming receipt of Rule 34(9) Letter, NoA, draft hearing bundle and draft hearing bundle index;
- MPTS Notice of Hearing ('NoH') letter sent via email to Dr Smith, dated 22 July 2025, chaser sent on 23 July 2025;
- Email from Dr Smith to the MPTS, dated 23 July 2025, confirming receipt of the NoH;
- Letter sent from the Medical Protection Society to the GMC on behalf of Dr Smith, dated 18 August 2025.

38. Ms Rimmer drew the Tribunal's attention to the emails sent to Dr Smith from the GMC and MPTS regarding the NoA and NoH, and Dr Smith's response via email to both, confirming that he had received them.

39. Ms Rimmer then referred the Tribunal to the letter from the Medical Protection Society, in which Dr Smith's representative, Mr C, wrote:

*"I write on behalf of Dr Oliver Smith in respect of the forthcoming Medical Practitioners Tribunal (MPT) hearing which is scheduled for three days and due to commence on 1 September 2025. As you will recall, Dr Smith is a Member of Medical Protection, and I have been instructed to assist him in respect of this matter. I would be very grateful if you could ensure that a copy of this letter is placed before the MPT in advance of the hearing. Dr Smith has seen and approved of the contents of this letter*

**Notice of Hearing and Proceeding in Absence**

*Dr Smith will not be attending the hearing, nor will he be represented. Dr Smith means no discourtesy by his non-attendance. Dr Smith continues to find these proceedings stressful, [XXX]. As such he has decided to [XXX] and will not therefore be attending the hearing. Dr Smith accepts that notice of the hearing has been properly served in accordance with the Rules and he does not apply for an adjournment. Dr Smith is content for the hearing to proceed in his absence and would like to make it clear that an adjournment would serve no purpose and would not facilitate his attendance at a later date.”*

40. Ms Rimmer submitted that on the basis of this letter and Dr Smith’s responses to emails from the GMC and MPTS, it was clear that Dr Smith and his representatives were aware of the hearing and that Dr Smith was voluntarily absent. All efforts had been made to serve notice of the hearing in accordance with the Rules. It was also on this basis that the GMC sought to proceed, under Rule 31 of the Rules.

41. Ms Rimmer cited the case of *GMC v Adeogba* [2016] EWCA Civ 162, that sets out the criteria to be applied when determining whether to proceed in the absence of a practitioner. She submitted that it was evident that Dr Smith was aware of this hearing and had communicated his decision not to attend. Ms Rimmer referred to the likely length of any adjournment and submitted that, for reasons already alluded to, an adjournment would achieve nothing and would not prompt Dr Smith’s attendance.

42. Ms Rimmer further submitted that Dr Smith was represented, albeit in the later stage of this process, and had been able to put forward submissions via his representatives that the Tribunal could take into account. In his submissions, Dr Smith made admissions to the facts in their entirety. He accepted the fact of his conviction and of the sentence imposed by the criminal court.

43. Ms Rimmer submitted that in all the circumstances, Dr Smith had put forward the representations he would have presented if attending in person. His absence had not precluded him from making any representations he wished to.

44. Ms Rimmer submitted that the Tribunal must look at the risk of the hearing reaching an improper conclusion. In this case there was no risk, as Dr Smith had been very clear about the reasons for his absence. Ms Rimmer stated that it was in the general public interest that the hearing be held within a reasonable time and to proceed today, as an adjournment would achieve nothing.

## The Tribunal’s Decision

### Service

45. The Tribunal first considered whether the relevant documents had been served in accordance with Rules 15 and 40, and paragraph 8 of Schedule 4 to the Medical Act 1983.

46. The Tribunal was satisfied that the notice of hearing was properly served on Dr Smith and noted that he had acknowledged correspondence from the GMC and MPTS in relation to the hearing. The Tribunal also took into account the contents of the letter from Dr Smith's representatives indicating that Dr Smith accepted that notice of this hearing had been properly served.

47. The Tribunal found that all reasonable efforts had been made to serve Dr Smith with notice of the hearing scheduled for today. Accordingly, the Tribunal was satisfied that the MPTS NoH had been properly served in accordance with Rules 15 and 40 of the Rules, and paragraph 8 of Schedule 4 to the Medical Act 1983.

#### Proceeding in absence

48. Having determined that the requirements of service had been met, the Tribunal then went on to consider whether it would be appropriate to proceed with this hearing in Dr Smith's absence pursuant to Rule 31 of the Rules:

*31 Where the practitioner is neither present nor represented at a hearing, the Committee or Tribunal may nevertheless proceed to consider and determine the allegation if they are satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with these Rules.*

49. The Tribunal also had regard to the case of *Adeogba*. It was conscious that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor and fairness to the doctor, with the wider public interest, including the need to protect the public.

50. The Tribunal took into account the letter sent on behalf of Dr Smith by his legal representatives, and the very clear statement that he did not wish to be present and was aware of the hearing. It was also confirmed that Dr Smith was content for today's hearing to proceed in his absence and that he did not wish to seek an adjournment.

51. The Tribunal took into account whether there would be potential disadvantage to Dr Smith in proceeding in his absence. However, this was to be balanced with the wider public interest.

52. The Tribunal found no evidence to suggest that an adjournment would facilitate Dr Smith's engagement or secure his attendance at a later date. The Tribunal took the view that although Dr Smith had voluntarily absented himself, he had provided the representations he would have made if attending in person. The Tribunal determined that it was in Dr Smith's interest that the matter be resolved expeditiously.

53. The Tribunal therefore concluded that it would be both fair and in the public interest for this hearing to proceed without further delay. The Tribunal was satisfied that it could proceed without any significant risk of injustice to Dr Smith and exercised its discretion to proceed in Dr Smith's absence in accordance with Rule 31 of the Rules.

Record of Determinations –  
Medical Practitioners Tribunal