

PUBLIC RECORD**Dates:** 24/02/2025 - 04/03/2025

Doctor: Dr Mouhammad SULTAN

GMC reference number: 3534780

Primary medical qualification: MD 1978 University of Aleppo

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

Summary of outcome

Erasure
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Andrew Lewis
Lay Tribunal Member:	Mr Colin Sturgeon
Registrant Tribunal Member:	Dr Iftikhar Ahmed

Tribunal Clerk:	Mr Michael Murphy (24/02/2025 to 28/02/2025) Mrs Jennifer Ireland (03/03/2025 to 04/03/2025)
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Attendance and Representation:

Doctor:	Not present, not represented
GMC Representative:	Mr Robin Kitching, Counsel

Attendance of Press / Public

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

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 - 27/02/2025

Background

1. Dr Sultan qualified in the Syrian Arab Republic in 1978. In 2023, Dr Sultan undertook work through a locum agency called '*National Locums*'. At the time of the events giving rise to the Allegation, Dr Sultan was undertaking a locum post at Royal Stoke University Hospital which is part of the University Hospitals of North Midlands NHS Trust (the Trust).
2. The allegation that has led to this hearing can be summarised as follows. Dr Sultan signed undertakings with the GMC on 7 December 2015. It was alleged that Dr Sultan, whilst working at the Trust, asked Dr A (Dr A) to sign a '*Doctors with Conditions Monitoring of Clinical Practise*' form and failed to notify him that he was subject to undertakings. The GMC alleged that Dr Sultan's failure to disclose his undertakings and other things he said when speaking to Dr A were untrue and dishonest. The GMC also alleged that Dr Sultan failed to complete a work details form despite being asked to do so by the GMC four times.

The Outcome of Applications Made during the Facts Stage

3. Dr Sultan was neither present nor represented at the start of the hearing and The Tribunal granted the GMC's application, made pursuant to Rule 31 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to proceed in Dr Sultan's absence. The Tribunal's full decision on the application is included at Annex A.

The Allegation and the Doctor's Response

4. The Allegation made against Dr Sultan is as follows:

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

1. On 7 December 2015 you signed a Schedule of Undertakings ('the Undertakings'), which included the undertakings listed in Schedule 1. **To be determined**
2. On 2 May 2023 you commenced a locum placement as a spinal surgeon in the Trauma and Orthopaedics department at the University Hospitals of North Midlands NHS Trust ('the Trust'). **To be determined**
3. On 5 May 2023 you asked Dr A to sign a 'Doctors with Conditions Monitoring of Clinical Practise' form ('the Form') and:
 - a. when Dr A asked about the current conditions you were under, you stated that you were 'under none currently', or words to that effect, which was untrue; **To be determined**
 - b. when Dr A queried the purpose of the Form, specifically the section(s) set out in Schedule 2, you replied to Dr A that it was 'nothing', or words to that effect and shrugged your shoulders; **To be determined**
 - c. you failed to notify Dr A that you were subject to the Undertakings. **To be determined**
4. You knew that:
 - a. the information you provided to Dr A as set out at paragraph:
 - i. 3a was untrue, in that you were the subject of the Undertakings at that time; **To be determined**
 - ii. 3b was untrue, in that the purpose of the Form was to enable you to comply with the Undertakings; **To be determined**
 - b. when asking Dr A to sign the Form, you should have notified him that you were subject to the Undertakings. **To be determined**
5. Your conduct as set out in paragraph:
 - a. 3a was dishonest by reason of paragraph 4ai; **To be determined**

- b. 3b was dishonest by reason of paragraph 4a(ii); **To be determined**
- c. 3c was dishonest by reason of paragraph 4b. **To be determined**
- 6. Following a referral to the Fitness to Practise directorate of the GMC on 14 July 2023 you failed to complete and return a Work Details Form having been requested to do so on:
 - a. 16 August 2023; **To be determined**
 - b. 24 August 2023; **To be determined**
 - c. 31 August 2023; **To be determined**
 - d. 8 September 2023. **To be determined**

Witness Evidence

- 5. The Tribunal received evidence on behalf of the GMC from Dr A, a Consultant Spinal Surgeon at the Trust.

Documentary Evidence

- 6. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:
 - Signed schedule of undertakings, dated 7 December 2015;
 - A Doctors with Conditions Monitoring of Clinical Practise form, dated 5 May 2023 (the Form);
 - Emails between Dr B (Responsible Officer for National Locums) and Dr A, from 26 May 2023 to 5 June 2023;
 - Email from MEDSU to the GMC, dated 25 March 2024;
 - Dr Sultan's Rule 7 response, dated 28 May 2024.

The Tribunal's Approach

- 7. The Tribunal heard the submissions of Mr Kitching and heard the advice of the legally qualified chair, which it has followed in its decision set out below.

8. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC to prove the Allegation. Dr Sultan 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.

9. The Tribunal accepted that it must not speculate but may draw inferences from the facts it has found proved.

10. The Tribunal accepted that where the GMC alleged that Dr Sultan failed to do something it must consider not only whether it is true that he did not but also whether he had a duty to do so.

11. The Tribunal accepted that, when assessing a witness, the Tribunal to be careful not to place too much reliance upon the demeanour of a witness and in particular, it must not decide whether it believes a witness purely on the basis of their demeanour and then ask if the surrounding evidence diminishes their finding. The High Court has reminded tribunals that can amount to reversing the burden of proof.

12. The Tribunal accepted that it should have regard to the directions given to Tribunals by the High Court and most recently summarised in the case of *Roach v GMC [2024] EWHC 1114*. The Tribunal should judge the witnesses evidence:

- a. By comparison with the contemporaneous medical notes.
- b. By assessing whether the chronological accounts given by each of the witnesses have been internally consistent or are contradictory or have been embellished.
- c. By assessing whether the accounts are consistent with external evidence and
- d. are corroborated by other witnesses or by objective documentary evidence including the medical notes.
- e. By assessing the witnesses' behaviours peripheral to the asserted core evidence to see if they support the asserted core evidence.
- f. By assessing the witnesses' motivations, mental health and past history.

g. By assessing the witness' demeanour and way of giving live evidence in the hearing. (With regard to this point, the Tribunal accepted that it should have regard to the witness's willingness to answer questions, make appropriate concessions and assist the Tribunal.)

h. In cases where there is no medical record and no third party contemporaneous note, the credibility of the protagonist and the antagonist may be more difficult to assess. Post event words and actions may be indicative or determinative.

i. Throughout all of these filters, the Court will take into account that memory is not perfect, it stores only what the witness saw, heard, smelt or read, it degrades with time, it may be manipulated quite honestly by the witnesses' desire to be right or justified and it may be manipulated consciously or unconsciously when it is accessed by questioning for the purposes of writing witness statements.

13. The Tribunal accepted the submission by Mr Kitching and the advice of the LQC that, in the absence of Dr Sultan, it would not be appropriate in this case to draw an adverse inference against Dr Sultan because he did not give evidence.

14. The Tribunal also accepted the submission of Mr Kitching that there are no criminal or disciplinary matters recorded against Dr Sultan so that the Tribunal should treat him as a man of good character when assessing how likely he is to have acted as alleged and in particular when considering the question of dishonesty.

15. With regard to the question of dishonesty, the Tribunal accepted that dishonesty is a finding of fact so that that the burden of proving dishonesty rests upon the GMC and the standard of proof is the balance of probabilities. There is no enhanced standard of proof although this Tribunal will of course approach such a serious allegation with the care that it merits and, if it makes a finding of dishonesty, identify the evidence upon which it relies and explain why it leads it to that conclusion.

16. There is seldom direct evidence of dishonesty. It is something upon which the Tribunal is invited to draw an inference from the facts it finds.

17. The Tribunal had regard to the case of *Ivey v Genting Casinos (UK) Limited [2017] UKSC 67*, in which Lord Hughes set out the correct test for dishonesty, which is as follows:

‘When dishonesty is in question the fact-finding Tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts.

The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held.

When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.’

The Tribunal’s Analysis of the Evidence and Findings

18. 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 of the Allegation

19. The Tribunal considered if Dr Sultan signed a Schedule of Undertakings on 7 December 2015. In doing so, it had regard to a document entitled ‘Schedule of Undertakings’ which was signed by Dr Sultan on 7 December 2015. The schedule also showed Dr Sultan’s full name and GMC registration number.

20. The Tribunal was satisfied that the Schedule of Undertakings was consistent with the email sent from Dr Sultan’s Responsible Officer, Dr B, to Dr A on 26 May 2023 in which he asked:

‘The GMC have also asked me to confirm approval for him to work in this locum role and approval of any arrangements re out-of-hours or on-call work if these will be required in the post.

Could you confirm these arrangements, if he has made you aware of his conditions, if he will be working out of hours or on-call and if the Responsible Officer or Clinical Lead are aware of his conditions and approve these arrangements.'

21. The Tribunal also found it to be consistent with Dr Sultan's email, dated 28 May 2024, in which he stated:

'thank you for the details of your investigations. I can repeat my reply to the investigation by taking note of the pages 99 and 100 of the attachment Rule 7 which was sent to you from the Locum agency on 17/04/2023 and 25/03/2024 which confirm that the stoke on Trent Hospital was informed about my condition. also it is interesting to know the decision maker person who gave me the job at the hospital and this has not been clarified in your investigation. I am sorry to say that the responsible officer Dr [B] did not provide his professional duty toward supporting my work'

22. The Tribunal observed that both Dr Sultan and Dr B referred to conditions rather than undertakings. However, the Tribunal was satisfied that both must have been referring to undertakings given by Dr Sultan rather than conditions, because the GMC confirmed that Dr Sultan had not had any conditions imposed upon him. The Tribunal decided that both Dr B and Dr Sultan were using the words undertakings and conditions interchangeably in correspondence after the Form was signed.

23. The Tribunal therefore determined that, Dr Sultan signed the Schedule of Undertakings.

24. Accordingly, it found paragraph 1 of the Allegation proved.

Paragraph 2 of the Allegation

25. The Tribunal considered if Dr Sultan commenced a locum placement as a spinal surgeon in the Trauma and Orthopaedics department at the Trust on 2 May 2023. In doing so, it had regard to Dr A's witness statement, dated 26 October 2023, in which he stated:

'I met Dr Sultan when he joined the Hospital for a placement as a locum Registrar in spine surgeries. I don't recall when I first met him, but it would have been in the first week when he started.'

26. The Tribunal also had regard to an email sent by Dr A to the GMC, dated 7 July 2023,

‘1. The proposed role was a fully functional locum registrar in spine surgery with full access to patients including paediatric patients and solo working. He was due to stay in this role for a 6 month period (to August 2023) depending on his ability to maintain duties.

2. He did start working in the role...’

27. The Tribunal accepted the unchallenged evidence of Dr A that he was a Consultant Surgeon in the spinal surgery department of the hospital and that Dr Sultan was employed as a member of that team. He was also the clinical lead for all short term locums. As a result he was clinical and educational supervisor and line manager for all short term locums in that department.

28. The Tribunal was satisfied that Dr A’s evidence regarding Dr Sultan’s position was simply a more detailed description of the expression ‘*spinal surgeon*’ in paragraph 2 of the allegation.

29. The Tribunal therefore determined that, Dr Sultan commenced the locum placement as a spinal surgeon.

30. Accordingly, it found paragraph 2 of the Allegation proved.

Paragraph 3 of the Allegation

31. Turning to Paragraph 3 of the Allegation, the Tribunal observed that the GMC’s case relied heavily on the evidence given by Dr A of a conversation between Dr Sultan and Dr A on 5 May 2023.

32. The Tribunal found Dr A to be an honest, helpful and reliable witness. He was questioned by the Tribunal, during his oral evidence, and readily admitted that his memory could be fallible, that there were matters he could no longer remember and that he had paid insufficient attention when signing the Form on 5 May 2023. The Tribunal noted variations in the words Dr A used in his oral and written evidence but did not consider this to undermine his evidence.

33. For those reasons, the Tribunal accepted that Dr A's evidence that he had signed the Form very quickly, without reading it carefully or properly addressing his mind to what it meant.

34. The Tribunal first considered the stem of Paragraph 3, namely that on 5 May 2023 Dr Sultan asked Dr A to sign the Form.

35. The Tribunal read a copy of the Form. The Tribunal observed that the Form was signed by Dr Sultan on 2 May 2023 and had his full name and GMC number recorded. It was apparent from the Form that Dr A signed it on 5 May 2023.

36. The Tribunal accepted Dr A's evidence that there was a conversation of approximately a minute between Dr A and Dr Sultan on 5 May 2023 and no contemporaneous note was made by Dr A. Dr A confirmed in his oral evidence, what he had written in his first statement to the GMC on 26 October 2023, that he had signed the Form because Dr Sultan had asked him to.

37. Accordingly the Tribunal is satisfied that the stem of Paragraph 3, that on 5 May 2023 Dr Sultan had asked Dr A to sign the Form, is proved.

38. The Tribunal then considered the allegations arising from what was allegedly said or not said during the conversation.

39. The Tribunal had regard to Dr A's evidence, including the oral evidence he gave to the Tribunal and two witness statements he made to the GMC dated 26 October 2023 and 8 September 2024. It also read an email exchange, touched upon above between Dr A and Dr B on 26 and 31 May 2023. It also read a subsequent email exchange between Dr A and the GMC in July 2023.

Paragraph 3(a) of the Allegation

40. The Tribunal considered if Dr A asked about the current conditions Dr Sultan was under, and Dr Sultan stated that he was 'under none currently', or words to that effect, which was untrue.

41. The Tribunal reminded itself that Dr A made no contemporaneous note of the conversation when Dr Sultan met with Dr A on 5 May 2023.

42. Accordingly, the Tribunal is satisfied that the first time that Dr A made a note of what had been said was in an email to Dr B, dated 31 May 2023, in which he wrote:

‘Sultan is expected to be a full functional middle grade doing on calls 8-8 (none overnight) and seeing clinic patients, seeing ward patients and assisting in theatre (unlikely to be independent in theatre).

He has not made me aware of any conditions; nor has the agency. [Tribunal’s underlining]

43. The Tribunal saw that this was written in reply to an email from Dr B in which he said:

‘I note Dr Mouhammad Abdulaziz Sultan 3534780 has named you as ... Educational Supervisor.

He has provided the attached Monitoring of Clinical Practise Form which you have kindly signed.

The GMC have also asked me to confirm approval for him to work in in this locum role and approval of any arrangements re out-of-hours or on-call work if these will be required in in the post.

Could you confirm these arrangements, if he has made you aware of his conditions, if he will be working out of hours or on-call and if the Responsible Officer or Clinical Lead are aware of his conditions and approve these arrangements. [Tribunal’s underlining]

44. The Tribunal readily accepted Dr A’s evidence that he did not know anything of conditions or undertakings after his conversation with Dr Sultan and *he ‘became aware that Dr Sultan had undertakings imposed on his registration when I received an email on 26 May 2023 from Dr [B], Responsible Officer of National Locums Locum Agency. In his email, Dr [B] asked what the plan was regarding Dr Sultan and asked for us to confirm the arrangements in place. I replied to the email on 31 May 2023 to advise that he would be in a fully functioning middle grade post and I advised that I was not aware of any conditions’.*

45. This evidence is entirely consistent with the e-mail exchange set out above.

46. Nevertheless, the Tribunal observes that when Dr A wrote his email of 31 May 2023, relatively soon after his conversation with Dr Sultan, Dr A did not record that Dr Sultan had told him expressly that he was under no conditions currently, merely that he, Dr A, knew of none.

47. The Tribunal then had regard to Dr A's email to the GMC, dated 7 July 2023, in which he stated:

'These are my signatures. He asked me to sign. When I asked him why I was signing the GMC section he stated that this was agency policy. When I asked again with respect to the current conditions he was under, he stated that he was under none currently [Tribunal's underlining] and the agency just requires this as a statement so that I can report back at the end of placement. He did not disclose any more information despite me asking.'

48. The Tribunal then observed that there was no reference in either of Dr A's statements to Dr Sultan saying expressly that he was not currently under conditions. Dr A accepted, very openly and properly in his oral evidence that he had no recollection of that aspect of his conversation with Dr Sultan. The Tribunal had no criticism of this as the conversation appeared to have been rushed, with no need for Dr A to have taken a contemporaneous note. On the contrary, the Tribunal was impressed by the Dr A's openness.

49. Taking all these pieces of evidence together, the Tribunal observed that the alleged words were not recorded in Dr A's email on 31 May 2023, nor Dr A's Statements, nor his oral evidence. The appeared on only one email in July 2023.

50. The Tribunal reminded itself that the burden of proof rests with the GMC and was satisfied that the evidence provided fell short of establishing on the balance of probabilities, that Dr Sultan said the words alleged or words to like effect.

51. Accordingly, it found paragraph 3(a) of the Allegation not proved.

Paragraph 3(b) of the Allegation

52. The Tribunal considered if Dr Sultan asked Dr A to sign the Form and when the purpose was queried said it was nothing and shrugged his shoulders.

53. In doing so it had regard to the oral and written evidence of Dr A. The Tribunal first had regard to Dr A's witness statement in which he said:

'I noticed that it stated 'I will keep his Responsible Officer up to date' and that the first part of each section stated that "I have been made aware that this doctor is current[sic] under conditions by [a previous placement, Trust, GMC]" so I asked Dr Sultan about this, and he said it was nothing and shrugged his shoulders. He said it was just something that his agency needed to have filled in.'

54. The Tribunal also had regard to Dr A's supplemental witness statement in which he said *'It wasn't until I reached the last section, which is the 'Work Place Reporter to complete' section, that I thought it seemed unusual, and I hesitated. I asked Dr Sultan what this meant, and he said it was nothing and shrugged his shoulders. He said it was just a form that his agency needed to have filled in. He did not elaborate further'.*

55. The Tribunal considered Dr A's evidence to have been credible and noted that his oral evidence was consistent with his written evidence. It also found that it was entirely consistent with the evidence of the email exchange set out above, which demonstrates that Dr A knew nothing of the undertakings (or conditions, as Dr B and Dr Sultan, later called them)

56. The Tribunal therefore accepted Dr A's evidence and determined that, Dr Sultan said the purpose of the Form was nothing and shrugged his shoulders in the way Dr A described to the Tribunal.

57. Accordingly, it found paragraph 3(b) of the Allegation proved.

Paragraph 3(c) of the Allegation

58. The Tribunal considered if Dr Sultan asked Dr A to sign the Form and failed to declare that he was subject to Undertakings.

59. For all the reasons set out above, the Tribunal is satisfied that Dr Sultan did not in fact declare that he was subject to undertakings.

60. The Tribunal then examined the evidence to decide if Dr Sultan was under a duty to inform Dr A of the Undertakings. It bore in mind that the Form referred to conditions and not undertakings. The Tribunal reminded itself that for the reasons set out above it considered the words conditions and undertakings were being using interchangeably by Dr Sultan and Dr B, although conditions and undertakings are separate sanctions under GMC Rules. The Tribunal also reminded itself that it must be clear where a duty arises from and it must arise from more than a subjective feeling that a doctor ought to behave in a particular way.

61. Accordingly, the Tribunal read the Undertakings. It observed that Dr Sultan had undertaken among other things:

‘To have a workplace reporter approved by my responsible officer (or their nominated deputy) and to inform the GMC of these arrangements.

To have an educational supervisor approved by my responsible officer (or their nominated deputy) and to inform the GMC of these arrangements.

To be closely supervised in all my posts by a clinical supervisor, as defined in the Glossary for undertakings and conditions. My clinical supervisor must be approved by my responsible officer (or their nominated deputy) and I must inform the GMC of these arrangements.

To inform...my immediate line manager at my place of work, at least 24 hours before starting work (for current and new posts, including locum posts’

62. The Tribunal also looked at the Form and in particular those parts where Dr A had initialled or signed. The Tribunal observed that Dr A had signed that he would be Dr Sultan’s Clinical supervisor, Educational supervisor and Work Place Reporter.

63. In his witness statement, Dr A said:

‘On the front page of the form, I can see that Dr Sultan has ticked the box next to the section stating that he will notify his RO, and further down the page, he has initialled to confirm that he has notified his designated body, employer and clinical supervisor that he is currently named in an ongoing investigation, but he didn’t do that [Tribunal’s underlining]. At the time when I was asked to sign the form, I was

presented with the second page of the form where you have to sign it. I don't recall seeing the front sheet. I just remember questioning why it said Responsible Officer and that Dr Sultan didn't elaborate.'

64. The Tribunal saw that Dr Sultan had indeed initialled the form in this way and was satisfied for the reasons set out above that what he had initialled was untrue.

65. Taking all this evidence together, the Tribunal was satisfied that Dr Sultan did have a duty to reveal the undertakings to Dr A, regardless of whether the Form referred to conditions or undertakings, for the following reasons:

- The Tribunal has observed above that Dr Sultan had undertaken (at paragraph 13c of the Schedule of undertakings) to inform his immediate line manager of the undertakings at least 24 hours before starting work and the Tribunal heard and accepted the evidence of Dr A that he was Dr Sultan's immediate line manager;
- The Tribunal is also satisfied that a duty to declare the undertakings to Dr A arose from the nature of the Form and the obligations that Dr A was being asked to take on, because if he did not inform Dr A, Dr Sultan would be putting Dr A in an impossible position;
- The Tribunal observed that it was clear from the schedule of undertakings that a clinical supervisor had an obligation to supervise Dr Sultan closely when he was working and the Tribunal was satisfied it would be literally impossible for him to fulfil that duty unless he was told that is what he was agreeing to do;
- The Tribunal also observed that by becoming Dr Sultan's workplace reporter, Dr A would be undertaking a significant obligation to Report to the GMC. The Tribunal was also satisfied that Dr A could not carry out that role if he was not made aware of it.

66. The Tribunal was careful not to impose over generalised obligations onto a doctor. It reminded itself that Good Medical Practice (2013)(GMP) placed upon doctors an obligation to act with honesty and integrity.

67. Taking all those matter together, the Tribunal was satisfied that Dr A's duty to inform Dr A that he was subject to undertakings and hence what obligations he, Dr A, was agreeing to undertake arose from:

- Dr Sultan's duty to act with integrity;
- the terms of Dr Sultan's undertakings in which he agreed he must be closely supervised in all posts. The Tribunal was satisfied that this obligation cannot be discharged unless the supervising consultant is informed of details of Dr Sultan's Undertakings.

68. Accordingly, it found paragraph 3(c) of the Allegation proved.

69. The Tribunal then turned to Paragraph 4 of the Allegation, which dealt with what Dr A knew at the time he invited Dr A to sign the Form. The Tribunal reminded itself that it had no direct evidence (by way of admissions or otherwise) of what Dr A knew and it had to consider what inferences it should draw from the facts it has found proved.

Paragraph 4(a)(i) of the Allegation

70. As the Tribunal found paragraph 3(a) of the Allegation not proved it also found paragraph 4(a)(i) of the Allegation not proved.

Paragraph 4(a)(ii) of the Allegation

71. The Tribunal considered if Dr Sultan knew that the purpose of the Form was to enable him to comply with the Undertakings.

72. The Tribunal re-examined the Form with care. It reminded itself that it referred to conditions rather than undertakings. At the same time, the Tribunal reminded itself how both Dr B and Dr Sultan had used the words conditions and undertakings as if they were interchangeable. The Tribunal also observed that on page 2 of the form, Dr Sultan had secured Dr A's initials on a section stating: *'I am the Clinical Supervisor for this doctor. I have been made aware that this doctor is current[sic] under conditions by (a previous placement, trust, GMC)'*. The Tribunal drew the inference that Dr Sultan was also treating undertakings and conditions as being the same, or he would not have obtained Dr A's initials in that section.

73. The Tribunal observed that, even if it was wrong about that, it was satisfied that the purpose the form was to obtain the agreement of Dr A to be Dr Sultan's clinical supervisor, educational supervisor and workplace reporter. The Tribunal was satisfied that the requirement for Dr Sultan to have the supervisor and reporter arose from his undertakings. Therefore, the Tribunal was satisfied that the form could realistically have had no other

purpose than to enable Dr Sultan to comply with his obligations under the undertakings in particular the obligations to have supervisors and a reporter.

74. The Tribunal then considered whether it was satisfied that Dr Sultan knew that this was the purpose of the Form. The Tribunal considered whether the GMC had discharged the burden of proving that this was more likely than Dr Sultan believing what he said to Dr A, namely that the Form was an administrative matter of no consequence.

75. The Tribunal reminded itself of the schedule of undertakings and that Dr Sultan had been subject to those undertakings for approximately eight years when he asked Dr A to sign the Form. Having regard to those documents and the circumstances in which Dr Sultan asked Dr A to sign the form, the Tribunal has concluded that there is effectively no other reason why Dr Sultan would have asked Dr A to complete the form, appointing him as supervisor and reporter if he didn't know that it was to comply with his undertakings.

76. The Tribunal therefore determined that, Dr Sultan knew the purpose of the Form was to comply with his undertakings.

77. Accordingly, it found paragraph 4(a)(ii) of the Allegation proved.

Paragraph 4(b) of the Allegation

78. The Tribunal considered if Dr Sultan knew he should have notified Dr A that he was subject to Undertakings, even though the Form referred only to conditions.

79. The Tribunal reminded itself of the reasons it found that Dr Sultan had a duty to disclose his undertakings to Dr A. The Tribunal reminded itself that this duty arose from the nature of both Dr Sultan's undertakings, the effect of the form to appoint Dr A as Dr Sultan's supervisor and reporter and the need for Dr A to be aware of the undertakings if he were to fulfil his roles.

80. The Tribunal also reminded itself that Dr Sultan had been subject to his undertakings for approximately 8 years.

81. Taking all those matters together, the Tribunal concluded that it could not envisage any circumstances in which Dr Sultan would not know that he should declare his undertakings to the doctor he was persuading to act as his supervisor and reporter.

82. The Tribunal therefore determined that, Dr Sultan knew he should have notified Dr A about his Undertakings.

83. Accordingly, it found paragraph 4(b) of the Allegation proved.

Paragraph 5(a) of the Allegation

84. As the Tribunal found paragraph 3(a) of the Allegation not proved, it also found paragraph 5(a) of the Allegation not proved.

Paragraph 5(b) of the Allegation

85. The Tribunal considered if Dr Sultan was dishonest in saying that the purpose of the Form was nothing and shrugging his shoulders when he knew this was untrue.

86. The Tribunal reminded itself that when considering whether Dr Sultan had acted dishonestly it must first consider what he knew about the state of the facts at the time he acted as the Tribunal has found proved.

87. The Tribunal reminded itself that Dr Sultan is a man of good character and it also reminded itself of the correspondence between the locum agency employing Dr Sultan and the Trust. The Tribunal observed that the Agency had told the Trust the bald fact that *'Dr has GMC undertakings'. Dr is very experienced'*. It also had regard to the assertion by the agency in a letter of 25 March 2024 that, *'we do not believe the candidate acted dishonestly in this instance...'*.

88. Nevertheless, the Tribunal was satisfied that its finding that Dr Sultan knew that the purpose of the form was to comply with his undertakings, was correct. The Tribunal also reminded itself that it had found that the effect of concealing this information from Dr A was to ensure that he undertook important obligations relative to Dr Sultan's undertakings without any knowledge of what he was doing.

89. The Tribunal has already observed that, in those circumstances, Dr Sultan would not be supervised nor would Dr A be in a position to report to the GMC.

90. The Tribunal was satisfied that ordinary decent people would find these actions dishonest because they had the effect of deceiving Dr A and allowing Dr Sultan to practise without the necessary supervisor or reporter in place to protect the public.

91. The Tribunal therefore determined that, Dr Sultan's conduct was dishonest.

92. Accordingly, it found paragraph 5(b) of the Allegation proved.

Paragraph 5(c) of the Allegation

93. The Tribunal considered if Dr Sultan's failure to declare to Dr A that he was subject to undertakings when he knew he was subject to undertakings was dishonest.

94. The Tribunal reminded itself that it had already decided that that Dr Sultan knew he was under a duty to disclose his undertakings to Dr A. Accordingly, the Tribunal asked itself whether ordinary decent people would find Dr Sultan's actions to be dishonest. Again, it was satisfied that they would because the effect of Dr Sultan's actions was to deliberately deceive Dr A about what he was signing and ensure that he could work without the supervision judged necessary to protect the public.

95. The Tribunal therefore determined that, Dr Sultan's conduct was dishonest.

96. Accordingly, it found paragraph 5(c) of the Allegation proved.

Paragraphs 6(a), (b), (c) and (d) of the Allegation

97. The Tribunal considered if Dr Sultan failed to return a completed Work Details Form having been requested to do so four times.

98. Having seen the correspondence from the GMC requesting details of his work, the Tribunal was satisfied that Dr Sultan did not supply the information requested of him on 4 occasions.

99. The Tribunal reminded itself of the decision in the case of *GMC v Adeogba [2016] EWCA Civ 162* in which the Court of Appeal decided that *'there is a burden on medical practitioners, as there is with all professionals subject to a regulatory regime, to engage with the regulator, both in relation to the investigation and ultimate resolution of allegations made*

against them. That is part of the responsibility to which they sign up when being admitted to the profession.'

100. The Tribunal also had regard to paragraph 73 of GMP which states:

'You must cooperate with formal inquiries and complaints procedures and must offer all relevant information while following the guidance in Confidentiality.'

101. It took the view that there was a duty on Dr Sultan to engage with the GMC.

102. The Tribunal therefore determined that Dr Sultan failed to complete the Work Details Form on four occasions.

103. Accordingly, it found paragraphs 6(a), (b), (c) and (d) of the Allegation proved.

The Tribunal's Overall Determination on the Facts

104. The Tribunal has determined the facts as follows:

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

1. On 7 December 2015 you signed a Schedule of Undertakings ('the Undertakings'), which included the undertakings listed in Schedule 1. **Determined and found proved**
2. On 2 May 2023 you commenced a locum placement as a spinal surgeon in the Trauma and Orthopaedics department at the University Hospitals of North Midlands NHS Trust ('the Trust'). **Determined and found proved**
3. On 5 May 2023 you asked Dr A to sign a 'Doctors with Conditions Monitoring of Clinical Practise' form ('the Form') and:
 - a. when Dr A asked about the current conditions you were under, you stated that you were 'under none currently', or words to that effect, which was untrue; **Not proved**
 - b. when Dr A queried the purpose of the Form, specifically the section(s) set out in Schedule 2, you replied to Dr A that it was

‘nothing’, or words to that effect and shrugged your shoulders;

Determined and found proved

- c. you failed to notify Dr A that you were subject to the Undertakings.

Determined and found proved

4. You knew that:

- a. the information you provided to Dr A as set out at paragraph:

- i. 3a was untrue, in that you were the subject of the Undertakings at that time; **Not proved**

- ii. 3b was untrue, in that the purpose of the Form was to enable you to comply with the Undertakings; **Determined and found proved**

- b. when asking Dr A to sign the Form, you should have notified him that you were subject to the Undertakings. **Determined and found proved**

5. Your conduct as set out in paragraph:

- a. 3a was dishonest by reason of paragraph 4ai; **Not proved**

- b. 3b was dishonest by reason of paragraph 4aii; **Determined and found proved**

- c. 3c was dishonest by reason of paragraph 4b. **Determined and found proved**

6. Following a referral to the Fitness to Practise directorate of the GMC on 14 July 2023 you failed to complete and return a Work Details Form having been requested to do so on:

- a. 16 August 2023; **Determined and found proved**

- b. 24 August 2023; **Determined and found proved**

- c. 31 August 2023; **Determined and found proved**

d. 8 September 2023. **Determined and found proved**

Determination on Impairment - 28/02/2025

105. 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 Sultan's fitness to practise is impaired by reason of misconduct.

The Evidence

106. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. The Tribunal heard no further evidence at this stage.

Submissions

107. On behalf of the GMC, Mr Kitching reminded the Tribunal that this stage of the hearing is itself in two stages and addressed the Tribunal first on whether the matters found proved amounted to serious misconduct. He set out the relevant principles and authorities, which the Tribunal refers below.

108. Mr Kitching turned first to the matter found proved at paragraph 6 of the Allegation. He submitted that, due to Dr Sultan not returning a completed Work Details Form (WDF), the GMC was unable to contact any of his employers. He informed the Tribunal that Dr Sultan has still not returned a completed WDF. Mr Kitching submitted that this amounted to sustained breaches of Dr Sultan's duty as a medical practitioner to inform the GMC about his employment. As such, he submitted that this amounted to serious misconduct.

109. Mr Kitching then addressed Dr Sultan's conduct when asking Dr A to sign the Form and the dishonesty found proved. He submitted that dishonesty is a significant and serious breach of the principles set out in GMP and that honesty and integrity are fundamental tenets of the medical profession.

110. Mr Kitching submitted that Dr Sultan misled Dr A both by misleading him about the nature of the Form and by not informing him about the Undertakings which had been judged necessary, in the interests of patient safety. He reminded the Tribunal of Dr A's alarm when he found out about the Undertakings and realised that Dr Sultan had been working without

the requisite arrangements in place. Accordingly, he submitted that there is an aspect of a potential risk to patient safety in this case.

111. Mr Kitching stated that the Form was intended to be supplied to Dr Sultan's locum agency as proof of his compliance with the Undertakings. He submitted that this highlighted the importance of the Form and potential impact of Dr Sultan's conduct. He submitted that although there are cases of more serious dishonesty this is a case that includes serious dishonesty which amounted to serious misconduct.

112. Turning to impairment, Mr Kitching submitted that there was no evidence that Dr Sultan understood the seriousness of his misconduct or had taken any steps to remediate his misconduct. He submitted that in the absence of any insight and remediation, there is nothing to enable the Tribunal to conclude that there is a low risk of repetition. He submitted that in those circumstances, the Tribunal should find that Dr Sultan's fitness to practise is currently impaired.

The Relevant Legal Principles

113. The Tribunal heard and accepted the advice of the Legally Qualified Chair. It reminded itself that at this stage of proceedings, there is no burden or standard of proof, and the decision on impairment is a matter for the Tribunal's judgement alone.

114. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct, that was serious, and then whether Dr Sultan's fitness to practise is currently impaired by reason of that misconduct.

115. The Tribunal must determine whether Dr Sultan's fitness to practise is currently impaired, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

116. With regard to misconduct the Tribunal had regard to the judgment of Lord Clyde in the case of *Roylance v GMC (No.2) [2000] 1 AC 311* as follows:

'a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'

117. The Privy Council went on to say that *‘the standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.’*

118. With regard to question of whether misconduct is serious, the Tribunal followed the guidance given to Tribunals in *Solicitors Regulation Authority v. Day and ors* [2018] EWHC 2726 (Admin):

‘We do not, we emphasise, say that there is a set standard of seriousness or culpability for the purposes of assessing breaches of the core principles in Tribunal proceedings. It is a question of fact and degree in each case. Whether the default in question is sufficiently serious and culpable thus will depend on the particular core principle in issue and on the evaluation of the circumstances of the particular case as applied to that principle.’

119. With regard to impairment, the Tribunal also had regard to the questions posed by Dame Janet Smith in the Fifth Shipman Report, as referred to in the case of *CHRE v NMC and Grant* [2011] EWHC 927 (Admin), as follows:

‘Do our findings of fact in respect of the doctor’s misconduct... show that his/her fitness to practise is impaired in the sense that s/he:

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

120. With regard the risk of repetition the Tribunal reminded itself that it must have regard to any evidence of insight demonstrated by Dr Sultan and evidence of remediation, that is to say steps to reduce the risk of repetition.

121. The Tribunal also reminded itself that when deciding the question of whether doctor sultan's fitness to practise is impaired it must have regard to the overarching objective to protect the public which has three aspects. It involves acting:

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

The Tribunal's Determination on Misconduct and Impairment

Misconduct

122. The Tribunal was satisfied that Dr Sultan's conduct breached the following paragraphs of GMP:

- '1** *Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*
- 65** *You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*
- 68** *You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.*
- 71** *You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.*
 - a** *You must take reasonable steps to check the information is correct.*
 - b** *You must not deliberately leave out relevant information.'*

123. The Tribunal reminded itself that not every breach of GMP will amount to serious misconduct and considered each of the matters proved in turn.

124. The Tribunal first considered its finding that Dr Sultan asked Dr A to sign the Form and when Dr A queried the purpose of the Form, he responded that it was '*nothing*' and shrugged his shoulders when he knew this was untrue and as such was dishonest.

125. The Tribunal has found that Dr Sultan's actions deliberately misled Dr A and was satisfied that this had potentially serious consequences for patient safety and for Dr A professionally. The Tribunal has already found that this behaviour was dishonest and took the view that it breached a fundamental duty of a doctor to act honestly. Accordingly, the Tribunal concluded that Dr Sultan's behaviour amounted to serious misconduct.

126. The Tribunal next considered its finding that Dr Sultan failed to notify Dr A that he was subject to Undertakings when he knew he should have done so and this was dishonest. It took the view that Dr Sultan's failure to disclose his undertakings also amounts to serious misconduct for the same reasons relating to patient safety and the potential effect of his dishonesty on Dr A.

127. The Tribunal then had regard to Dr Sultan's failure to complete and return a WDF having been requested to do so on four occasions.

128. The Tribunal has already found at the fact stage that by not completing the WDF Dr Sultan breached his obligation to engage with the GMC and the provision of GMP set out in the stage 1 determination.

129. The Tribunal was satisfied that this amounted to misconduct because it had the potential to obstruct the GMC in its role of protecting the public and Dr Sultan was warned that failure to reply may result in a further allegation being added by the GMC.

130. The Tribunal then considered whether Dr Sultan's misconduct was serious. It bore in mind the following matters:

- at all the relevant times, Dr Sultan was subject to undertakings which ensured that he notified the GMC, in advance, of any employment he undertook. In those circumstances, the public was already protected;
- Dr Sultan's failure to supply the information required of him, was part of an almost complete disengagement from the GMC to the point where his licence to practise was withdrawn;
- in the circumstances set out above, it is extremely unlikely that Dr Sultan was in fact working as a doctor and accordingly it was extremely unlikely that his failure did impede the GMC in this case.

131. Taking all those matters together the Tribunal concluded that not returning the WDF amounted to misconduct but fell short of amounting to serious misconduct.

Impairment

132. The Tribunal then went on to consider whether Dr Sultan's fitness to practice is currently impaired as a result of those matters it has found to amount to serious misconduct.

133. The Tribunal considered the questions posed in *Grant* (above). It dealt first with what it had found to have occurred in the past.

134. It first considered if Dr Sultan's misconduct put patients at an unwarranted risk of harm.

135. The Tribunal reminded itself that Dr Sultan did not declare to Dr A his Undertakings that were in place in order to protect the public. It bore in mind that Dr Sultan practised for a short period of time without the supervision deemed necessary in his Undertakings for him to work safely. It is concerned that there is a potential risk whenever a doctor works in this way. However, the Tribunal acknowledged that there is no evidence that he caused any individual patient harm during the short time he worked.

136. The Tribunal considered if Dr Sultan's misconduct brought the medical profession into disrepute. It noted that the Undertakings in place were to safeguard patients and that by acting dishonestly, he did not comply with these. In addition, the Tribunal concluded that because of Dr Sultan's dishonesty to Dr A, colleagues would not be able to trust him. The Tribunal was satisfied that this brought the medical profession into disrepute.

137. The Tribunal considered if Dr Sultan’s misconduct breached a fundamental tenet of the medical profession. It was satisfied that honesty and integrity are fundamental tenets and that Dr Sultan did not adhere to these.

138. The Tribunal has already found, at the facts stage, that Dr Sultan acted dishonestly.

139. The Tribunal then considered whether he was liable to do any of the things set out above in the future.

140. Accordingly, it considered the risk that Dr Sultan would repeat his misconduct.

141. The Tribunal was aware that dishonesty is difficult to remediate but that it is possible. It noted that its finding is of a relatively short period of dishonesty by a doctor of good character.

142. However, the Tribunal observed that no evidence of insight or remediation has been submitted on Dr Sultan’s behalf so that there is nothing before the Tribunal to reassure it that Dr Sultan understands the impact of his actions or how he should conduct himself in future. Nor is there anything before the Tribunal to reassure it that Dr Sultan has taken any steps to reduce the risk of repetition.

143. In those circumstances, the Tribunal concluded that there is a risk of repetition as no evidence of insight or remediation has been provided by Dr Sultan to suggest otherwise.

144. Accordingly, the Tribunal is satisfied that a finding of impairment is necessary to protect the public from the risk posed by Dr Sultan practising without restrictions.

145. The Tribunal then considered whether a finding of impairment is also required in the wider public interest referred to above.

146. The Tribunal noted the context of Dr Sultan’s misconduct in that his Undertakings came into effect in 2015 meaning that at the point of his misconduct he had been subject to them for over seven years. The Tribunal was satisfied that an informed member of the public would be dismayed, if no finding of impairment were made in respect of serious misconduct by a doctor who had been subject to undertakings, the need to reflect on his conduct for so long and to improve his performance.

147. Accordingly, the Tribunal concluded that a finding of impairment was necessary to maintain public confidence in the medical profession and to maintain proper standards of conduct for members of the profession.

148. The Tribunal has therefore determined that Dr Sultan's fitness to practise is impaired by reason of misconduct, under all three headings of the overarching objective.

Determination on Sanction - 04/03/2025

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

The Evidence

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

151. The Tribunal also received further documentary evidence on behalf of the GMC in the form of letters to Dr Sultan from the GMC, setting out details of breaches of his undertakings in 2016 and 2019.

Submissions

152. On behalf of the GMC, Mr Kitching submitted that the appropriate sanction, although a matter for the Tribunal's own judgement, would be one of erasure. He referred the Tribunal to the Sanctions Guidance (2024) ('the SG') and its determinations on facts and impairment throughout his submissions.

153. Mr Kitching submitted that all three strands of the statutory overarching objective are engaged on the facts of this case as there were potentially serious consequences for patient safety and Dr A, whom he deceived. He stated that the Tribunal has found that Dr Sultan's actions breached fundamental tenets of the profession. Mr Kitching referred the Tribunal to the letters submitted by the GMC, detailing two previous breaches of Dr Sultan's undertakings. He submitted that the breach of an undertaking can never be described as trivial, however accepted that the previous matters were not so serious that the GMC had to

take action beyond warning Dr Sultan in writing. He submitted that these past breaches should underline the Tribunal's findings in respect to the likelihood of repetition.

154. Mr Kitching submitted that, in respect to aggravating features, the Tribunal should take into account that Dr Sultan has been found to have acted dishonestly, which had potentially serious consequences for patient safety. Further, he submitted that the potential consequences for Dr A should also been taken into account. He submitted that, although there was no specific allegation that the conduct was in breach of Dr Sultan's undertakings, it clearly was a breach and should be taken into account as an aggravating feature.

155. Mr Kitching submitted that all dishonest conduct is serious, however, not all acts of dishonesty are equally serious. He submitted that this case lies towards the upper end of that scale. He stated that there has never been any acknowledgement of fault, no evidence of insight, and consequently a risk of repetition. Mr Kitching submitted that, with respect to mitigation, it was right to acknowledge that Dr Sultan has no previous findings of dishonesty.

156. Mr Kitching submitted that to take no action would be inappropriate in this case. Further, he submitted that the conduct was too serious for conditions to be appropriate or workable in this case. Mr Kitching acknowledged that in the right circumstances suspension can be used as a deterrent and to send out a signal to both the public and the wider profession. However, taking into account all of the circumstances, he submitted that Dr Sultan's conduct was fundamentally incompatible with continued registration. He submitted that these acts of dishonesty with the aggravating features identified and in the absence of any insight, suspension was not a sufficient sanction in all of the circumstances of this case.

157. Mr Kitching submitted that Dr Sultan's actions were a blatant disregard for the principles in GMP and patient safety. Further, he submitted that there was to some extent an abuse of the trust of Dr A. Mr Kitching acknowledged that Dr Sultan's dishonesty related to a single brief conversation, so were not prolonged, however Dr Sultan did not correct or subsequently inform Dr A of the true position, so it could be argued that there was an element of persistence. He submitted that Dr Sultan had put his own interests above that of patients, and there was certainly an absence of evidence of insight, as noted by the Tribunal. He submitted that for all of those reasons, the appropriate sanction in this case, was one of erasure.

The Relevant Legal Principles

158. The Tribunal reminded itself that the decision as to the appropriate sanction to impose, if any, was a matter for it alone, exercising its own judgement. In reaching its decision on sanction, the Tribunal had regard to the SG, reminding itself that it was guidance and could be departed from provided there was a good reason. It bore in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it noted that any sanction imposed may have a punitive effect. It reminded itself that in deciding what sanction, if any, to impose, it should consider the sanctions available, starting with the least restrictive.

159. Throughout its deliberations, the Tribunal had regard to the overarching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promotion and maintenance of proper professional standards and conduct for members of the profession. It applied the principle of proportionality, balancing Dr Sultan's interests with the public interest.

The Tribunal's Determination on Sanction

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

Aggravating factors

161. The Tribunal first gave consideration to its assessment of Dr Sultan's insight. In its determination on impairment, it identified that there was no evidence to demonstrate that Dr Sultan had insight into his misconduct. The Tribunal acknowledged that Dr Sultan is not present at the hearing, nor is he represented. However, it noted that Dr Sultan has been in contact with the GMC during the investigation process and has not demonstrated any insight in his contact, nor acknowledged the seriousness of his actions. The Tribunal was therefore satisfied that this represented a persistent lack of insight.

Mitigating Factors

162. The Tribunal acknowledged that there are no matters of dishonesty recorded against Dr Sultan after a long career. The Tribunal decided that this was to Dr Sultan's credit although the Tribunal could attach little weight because that is no more than is to be expected of a doctor.

163. In balancing these factors, the Tribunal made an assessment of the seriousness of Dr Sultan's actions. It was satisfied that dishonest conduct is inherently serious as there is a

general duty on all doctors to be honest, particularly with colleagues. Further, it acknowledged that Dr Sultan's actions could have put patients at risk of harm, and had the potential for consequences for his colleagues. The Tribunal was of the view that this incident could be classified as dishonesty with a negative impact on both patients and colleagues. Further, it was made more serious as Dr Sultan was subject to undertakings and his actions were in breach of those safeguarding measures put in place to protect patients.

164. The Tribunal also took into consideration the letters it received from the GMC, which detailed breaches of Dr Sultan's undertakings in 2016 and 2019. It noted that this was the third occasion on which Dr Sultan had breached his undertakings, although this was the first time he had done so dishonestly. The Tribunal took into account that Dr Sultan had been warned about his future conduct following his earlier breaches. The Tribunal was of the view that these past warnings demonstrated that Dr Sultan's attitude to his undertakings has been cavalier, and on this occasion demonstrated a significant escalation, as he had not merely disregarded his undertakings but had been dishonest.

165. The Tribunal was therefore satisfied that on a spectrum of cases of dishonesty, Dr Sultan's actions fell at the higher end of the scale.

166. Taking this assessment into account, the Tribunal went on to consider each sanction in order of ascending severity, starting with the least restrictive.

No action

167. The Tribunal first considered whether to conclude the case by taking no action. It noted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

168. The Tribunal was satisfied that there were no exceptional circumstances in Dr Sultan's case which could justify it taking no action. Further the Tribunal considered that concluding the case by taking no action would be insufficient to protect the public interest and would not mark the seriousness of Dr Sultan's actions.

Conditions

169. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Sultan's registration. It had regard to the SG, in particular paragraphs 81, 82 and 85:

81 *Conditions might be most appropriate in cases:*

- a involving the doctor's health*
- b involving issues around the doctor's performance*
- c where there is evidence of shortcomings in a specific area or areas of the doctor's practice*
- d where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision...*

82 *Conditions are likely to be workable where:*

- a the doctor has insight ...*

...

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

170. The Tribunal had regard to its earlier conclusion on aggravating factors, above, in relation to Dr Sultan's insight. The Tribunal also bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable. It considered that no workable or measurable conditions could be formulated which would address the seriousness of Dr Sultan's misconduct and adequately protect the public. Nor could the Tribunal be confident that Dr Sultan would comply with any conditions in light of the findings it has made.

171. In addition, the Tribunal considered that conditions would be insufficient to maintain public confidence in the profession and to promote and maintain proper standards of conduct. The sanction of conditions would not properly reflect the gravity of the misconduct.

Suspension

172. The Tribunal then went on to consider whether a period of suspension would adequately protect the public, maintain public confidence in the profession and uphold proper standards of conduct for its members. In considering whether to impose a period of

suspension on Dr Sultan's registration, the Tribunal had regard to paragraphs 91, 92, 93, 97(a), (e), (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).*
- 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 (see paragraphs 24–49)*
- ...
- 97** *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*
- a** *A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.*
- ...

- e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.*
- f No evidence of repetition of similar behaviour since incident.*
- g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.'*

173. The Tribunal had regard to its findings that Dr Sultan's conduct constituted breaches of GMP including paragraphs 1, 65, 68 and 71 and that his actions breached a fundamental tenet of the profession, namely to act honestly. The Tribunal was satisfied that the identified breaches represented a significant departure from GMP.

174. In considering whether Dr Sultan's conduct was fundamentally incompatible with continued registration, the Tribunal took into account the serious nature of the misconduct it has found. It recognised that dishonesty is serious and can undermine public confidence in the profession. It observed that dishonesty is difficult to remediate and had assessed the dishonesty at the higher end of the spectrum. It took into account that the dishonesty in this case was within a clinical setting and involved Dr Sultan's professional responsibilities. It also had regard to Dr Sultan's lack of insight and the risk of repetition that it has already identified

175. Further, the Tribunal was not satisfied that this incident could be properly classed as isolated as Dr Sultan had been non-compliant with his undertakings on two occasions in the past, for which he had received letters from the GMC warning him about his future conduct.

176. The Tribunal was of the view that because of the seriousness of Dr Sultan's conduct, together with the absence of insight or remediation from Dr Sultan, it could not conclude that suspension was the appropriate sanction despite Dr Sultan's lack of previous adverse regulatory findings for dishonesty, and his long career. It was satisfied that suspension would not protect the public interest nor meet the statutory overarching objective, in respect of maintaining public confidence or promoting and maintaining professional standards. The Tribunal was satisfied that the circumstances of Dr Sultan's case were such that his misconduct, taken together with the background to it and the absence of insight since, is fundamentally incompatible with continued registration.

Erasure

177. The Tribunal therefore went on to consider whether the sanction of erasure was appropriate and proportionate.

178. The Tribunal had regard to paragraphs 108, 109(a), (b), (h), (i) and (j) of the SG and considered they were particularly relevant in Dr Sultan's case:

'108 *Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.*

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 difficult to remediate.*

b *A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety*

...

h *Dishonesty, especially where persistent and/or covered up (see guidance below at paragraphs 120–128).*

i *Putting their own interests before those of their patients (see Good medical practice introduction on page 7 'Patients must be able to trust medical professionals with their lives and health. To justify that trust you must make the care of patients your first concern, and meet the standards expected of you in all four domains.' and paragraphs 94–97 regarding conflicts of interest)*

j Persistent lack of insight into the seriousness of their actions or the consequences.'

179. For the reasons previously set out in the determination, the Tribunal was satisfied that Dr Sultan's conduct engaged each of the above paragraphs. There had been a particularly serious departure from GMP and it regarded that the dishonest conduct was difficult to and had not been remediated. The Tribunal acknowledged that Dr Sultan's actions had put patients at risk of harm and had potential repercussions for his colleague who was unaware of his dishonesty.

180. Further, the Tribunal had regard to the following paragraphs of the SG:

'124 *Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.*

...

128 *Dishonesty, if persistent and/or covered up, is likely to result in erasure (see further guidance at paragraph 120–128)'*

181. The Tribunal acknowledged the need to balance the public interest with Dr Sultan's interests, and to be proportionate in determining sanction. The Tribunal also bore in mind the judgment of the court in *Bolton v Law Society* [1994] 1 WLR 512 to the effect that the interests of the profession outweigh those of the individual. The Tribunal acknowledged that erasure will undoubtedly have an impact on Dr Sultan, however, it concluded that the need to uphold the overarching objective took precedence, in particular limbs (b) and (c): to promote and maintain public confidence in the medical profession; and promote and maintain proper professional standards and conduct for the members of the profession.

182. In all the circumstances, the Tribunal concluded that Dr Sultan's interests are outweighed by the need to maintain public confidence in the profession and to declare and uphold proper standards of conduct and behaviour.

183. In the view of the Tribunal, bearing in mind the nature of the dishonest misconduct in this case together with the lack of insight demonstrated, Dr Sultan's misconduct was fundamentally incompatible with continued registration. Therefore, the only appropriate sanction in this case is to direct that Dr Sultan's name is erased from the medical register. The Tribunal concluded that a sanction of erasure was the only sanction that would mark the seriousness of Dr Sultan's misconduct and be sufficient to uphold the statutory overarching objective.

184. The Tribunal therefore determined to erase Dr Sultan's name from the medical register.

Determination on Immediate Order - 04/03/2025

185. Having determined that Dr Sultan's name should be erased from the medical register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order.

Submissions

186. On behalf of the GMC, Mr Kitching submitted that an immediate order is required in this case. He directed the Tribunal to the relevant paragraphs of the SG and submitted that it would be wrong for Dr Sultan to be allowed to practice unrestricted before the substantive order takes effect, or before any appeal is heard, given the Tribunal's findings.

The Tribunal's Determination

187. In reaching its decision, the Tribunal considered the relevant paragraphs of the SG and exercised its own independent judgment. In particular, it took account of paragraphs 172, 173 and 178:

'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. ...*

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

...

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

188. The Tribunal determined that an immediate order was necessary to protect patients, uphold public confidence in the medical profession and is otherwise in the public interest. The Tribunal was of the view that public confidence would be undermined if Dr Sultan was permitted to practise unrestricted, given the serious nature of his misconduct, and the assessed risk of repetition.

189. This means that Dr Sultan'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.

190. There is no interim order in place.

191. That concludes the case.

ANNEX A – 24/02/2025

Determination on service and proceeding in the doctor's absence

192. Dr Sultan is neither present nor represented at these proceedings. The Tribunal has considered whether notice of this hearing has been properly served upon Dr Sultan in accordance with Rules 15 and 40 of the General Medical Council (Fitness to Practise) Rules 2004 (as amended)(the Rules) and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended). In so doing, the Tribunal has taken into account all the information placed before it, together with the submissions on behalf of the GMC.

193. The Tribunal has been provided with a service bundle, containing a copy of the notice of allegation, dated 18 December 2024, which was emailed and also posted to Dr Sultan's registered address by the GMC. No electronic receipt of the email was received but the Tribunal took account of the note recording delivery of the letter to Dr Sultan's registered address on 20 December 2024.

194. The service bundle also contained a copy of the Notice of Hearing, dated 18 December 2024, which was emailed to Dr Sultan by the MPTS. No electronic receipt of the email was received for this so the notice was posted to Dr Sultan's registered address by the MPTS on 20 December 2024. The Tribunal took account of the note recording delivery of this to Dr Sultan's registered address on 21 December 2024.

195. Having considered all the information, the Tribunal was satisfied that all reasonable efforts were made to serve notice of this hearing upon Dr Sultan and that notice had been properly served.

196. The Tribunal went on to consider whether to proceed with the case in Dr Sultan's absence in accordance with Rule 31 of the Rules. In doing so, it took account of the advice of the legally qualified chair who referred to the judgments in the cases of *R v Jones [2003] 1AC1* and *GMC v Adeogba [2016] EWCA Civ 163*. He advised that the Tribunal has a discretion to proceed with the case in the doctor's absence, though this discretion is to be exercised with great care and caution with the overall fairness of proceedings in mind. He advised that the Tribunal should have regard to all of the circumstances including the following:

- The nature and circumstances of the doctor's behaviour in absenting himself, in particular, whether the behaviour was voluntary and therefore waived the right to be present;
- Whether an adjournment would secure the doctor's attendance;
- The likely length of any such adjournment;
- Whether the doctor, although absent, wished to be represented or whether he had waived his right to be represented;
- The extent of any disadvantage to the doctor in not being able to present his account of events;
- The public interest that a hearing should take place within a reasonable time;
- The effect of any delay on the memories of witnesses.

197. The Tribunal has balanced the interests of the practitioner, including fairness to him, against the public interest, including the need to protect patients. Mr Kitching informed the Tribunal that the last email correspondence sent by Dr Sultan to the GMC was on 28 May 2024 and that the GMC was copied into an email Dr Sultan sent to his responsible officer on 12 December 2023. Mr Kitching also informed the Tribunal that Dr Sultan's licence to practise was revoked on 26 November 2024. The Tribunal therefore concluded that Dr Sultan has disengaged from the regulatory process.

198. The Tribunal noted that no reason has been given for Dr Sultan's absence and no information has been provided as to whether he has sought legal representation. On the basis of all the information provided, the Tribunal was satisfied that Dr Sultan has voluntarily waived his right to be present and represented at this hearing and that he is aware the hearing can proceed in his absence, because, as the Tribunal has observed, this is stated clearly in the notice of hearing sent to him. As such, the Tribunal considered that were it to adjourn today, it was very unlikely that Dr Sultan would attend a future hearing. The Tribunal also observed that a witness is due to attend to give evidence and concluded that an adjournment risked causing significant inconvenience to him and adversely affecting the quality of his evidence.

199. The Tribunal therefore determined that it is in the public interest to exercise its discretion and proceed with the case in Dr Sultan's absence.

SCHEDULE 1

‘...4. a To have a workplace reporter approved by my responsible officer (or their nominated deputy) and to inform the GMC of these arrangements.

b Not to start/restart work until my responsible officer (or their nominated deputy) has approved my workplace reporter and this approval has been forwarded to the GMC...

...6. a To have an educational supervisor approved by my responsible officer (or their nominated deputy) and to inform the GMC of these arrangements.

b Not to start/restart work until my responsible officer (or their nominated deputy) has approved my educational supervisor and this approval has been forwarded to the GMC...

...8. To get the approval of my responsible officer (or their nominated deputy), and to inform the GMC of the approved arrangements before working:

a as a locum/in a fixed term contract

b out-of-hours

c on-call...

...10. a To be supervised in all my posts by a clinical supervisor, as defined in the Glossary for undertakings and conditions. My clinical supervisor must be approved by my responsible officer (or their nominated deputy) and I must inform the GMC of these arrangements.

b Not to start/restart work until my responsible officer (or their nominated deputy) has approved my clinical supervisor and this approval has been forwarded to the GMC...

...12. To inform the following persons of the undertakings listed at 1 to 13:

a my employer and/or contracting body

c my immediate line manager at my place of work, at least 24 hours before starting work (for current and new posts, including locum posts)

d any prospective employer and/or contracting body, at the time of application

SCHEDULE 2

‘I will keep his Responsible Officer up to date...’

‘I have been made aware that this doctor is current under conditions by [a previous placement, Trust, GMC]’