

PUBLIC RECORD

Dates: 16/11/2023 - 17/11/2023

Medical Practitioner's name:	Dr Sarah MYHILL
GMC reference number:	2734668
Primary medical qualification:	MB BS 1981 University of London
Type of case	Outcome on impairment
Review - Misconduct	Impaired

Summary of outcome
Suspension, 12 months.

Tribunal:

Legally Qualified Chair	Mrs Catherine Moxon
Lay Tribunal Member:	Mr Robert McKeon
Medical Tribunal Member:	Dr Alastair McGowan

Tribunal Clerk:	Ms Angela Carney
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Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Ms Rosalind Emsley-Smith, 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 Impairment - 17/11/2023

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

The Outcome of Applications Made during the Impairment Stage

2. The Tribunal refused Dr Myhill's application, made pursuant to Rule 34 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to call three witnesses. The Tribunal's full decision on the application is included at Annex A.

Background

3. Dr Myhill obtained her MBBS medical qualification at the University of London in 1981. Prior to the events which are the subject of the hearing, Dr Myhill worked for 20 years within the NHS in General Practice. Dr Myhill then spent six months as an Associate Specialist at the Royal Shrewsbury Hospital working with patients with chronic fatigue syndrome. At the time of the events Dr Myhill specialised in ecological medicine and had done so for a number of years. She was also the Secretary of the British Society for Ecological Medicine. Ecological medicine is defined by the British Society for Ecological Medicine as the study and good practice of allergy, environmental and nutritional medicine for the benefit of the public.

4. Dr Myhill's hearing commenced in December 2022 and concluded in January 2023 ("the January 2023 Tribunal"). Dr Myhill was not present or represented at that hearing.

Patient A

5. The facts found proved by the January 2023 Tribunal can be summarised as, on a number of occasions, between approximately July 2015 and April 2018, Dr Myhill failed to provide good clinical care to Patient A. The January 2023 Tribunal found that these actions did not leave Dr Myhill's fitness to practise impaired.

Patient B

6. The January 2023 Tribunal found proved that between 9 and 13 April 2020 Dr Myhill failed to provide good clinical care to Patient B after they experienced an unexpected fall. It found that Dr Myhill failed to diagnose that Patient B had a possible fractured hip that required immediate management which indicated the need for an ambulance and attendance at an Accident and Emergency department. Further, that Dr Myhill administered, without clinical justification, prednisolone 20mg, diazepam 2mg and a ketogenic diet.

Internet Allegations

7. The January 2023 Tribunal found proved that on one or more occasions between March and May 2020, Dr Myhill promoted and endorsed the use of agents to treat and protect against viral and bacterial infections, including Coronavirus. Dr Myhill failed to clearly articulate a number of factors in relation to ‘the Agents’ namely, Vitamin C, Iodine, Vitamin D and Ivermectin, including that they were not universally safe when used in the way she recommended and were not licensed to be used as anti-viral agents.

8. The January 2023 Tribunal found that Dr Myhill’s recommendations and actions risked patient safety by exposing patients to potential serious harm, including toxicity, and/or, failed to meet NICE guidance of Vitamin D dosing, and were unproven in terms of their benefits.

9. The January 2023 Tribunal found proved that Dr Myhill’s recommendations and actions undermined public health by exposing patients to potential serious harm, including toxicity, and/or, failed to meet NICE guidance of vitamin D dosing, were not supported by any professional UK medical body or the NHS and were unproven in terms of their benefits.

10. The January 2023 Tribunal found that Dr Myhill had breached paragraphs 1, 15, 16, 22, 49, 65, 68, 70, 71 and 73 of GMP.

11. The January 2023 Tribunal determined that Dr Myhill’s failures amounted to serious professional misconduct.

12. The January 2023 Tribunal determined that a reasonable and well-informed member of the public would expect a finding of impairment to be made in this case, both to mark the seriousness of the misconduct, and to uphold proper standards across the medical profession. It considered that Dr Myhill’s misconduct had brought the medical profession into disrepute. The Tribunal considered that public confidence in the profession would be undermined if a finding of impairment was not made in this case. In terms of Patient B and the internet allegations the January 2023 Tribunal determined that Dr Myhill’s fitness to practise was impaired by reason of misconduct.

13. The January 2023 Tribunal determined to impose a nine-month suspension on Dr Myhill’s registration to mark the seriousness of her misconduct and uphold the overarching objective to protect the public, maintain public confidence in the profession and uphold proper professional standards. The January 2023 Tribunal concluded that the nine-month

suspension would provide Dr Myhill with an opportunity to reflect on her misconduct, develop insight and remediate appropriately.

14. The January 2023 Tribunal determined that a reviewing Tribunal may be assisted if Dr Myhill provided:

- Evidence of insight
- Evidence of Continuing Professional Development (CPD) and measures taken to keep her knowledge up to date
- Targeted training to address the issues relating to her misconduct
- A reflective statement
- Evidence of satisfactory appraisals since 2020
- Evidence of remediation and steps taken to remediate issues identified
- A report from her Responsible Officer showing that she has maintained her competence.

The Evidence

15. The Tribunal has taken into account all the evidence received, both oral and written.

16. Dr Myhill gave oral evidence and provided documents relating to her research on vitamins and supplements.

Dr Myhill's oral evidence

17. Dr Myhill said that at the January 2023 hearing the GMC misled the Tribunal by failing to allow her to produce her own medical records of Patient A. Dr Myhill said the reason she did not attend that hearing was because it could not possibly be fair. She said that the GMC sent Patient A's medical records which were not anonymised, and it was her view that even if she anonymised the records she held she would be unable to use them, which meant her hearing was intrinsically unfair, regardless of the outcome. She said she did not appeal the decision due to the financial cost of an appeal.

18. Dr Myhill provided background to her GMC investigations.

19. When asked about insight Dr Myhill said that the evidence at the January 2023 hearing was unfair and asked the Tribunal to consider the other evidence she had provided to demonstrate that the January 2023 Tribunal's decision was "materially flawed".

20. When asked about remediation Dr Myhill said that it is not relevant in her case nor in her present role as a naturopath, and she has not worked as a doctor since 2020. She said that she does not have appraisals and she wished to de-register as a doctor. She said that she had applied for Voluntary Erasure which was refused as she was subject to ongoing

investigation. She said that she cannot satisfy the Tribunal's demands because she does not wish to be a doctor.

21. Dr Myhill said that both GMC experts were either dishonest or not experts and acted to support the GMCs allegations. Dr Myhill referred the Tribunal to the Bolam test (*Bolam v Friern Hospital Management Committee [1957] 1 WLR 582*). She advanced that she had been acting in accordance with a body of medical opinion. When asked what she had done to remediate since the previous hearing in January 2023 Dr Myhill said that she has remediated by having provided a huge body of evidence. Dr Myhill referred to the research and references she provided in relation to Magnesium, Vitamin C, Vitamin D and Iodine. She said that Dr C's expert report was incomplete, highly selective and in parts wrong.

22. Dr Myhill confirmed that she wished this Tribunal to consider that the evidence at the January 2023 hearing was incomplete. Dr Myhill said that there have been no deaths from supplements and her recommendations for vitamins and minerals are considerably safer than prescription drugs. Dr Myhill said that the medical evidence base that she had provided demonstrated the research she had done and showed great insight. She said that the January 2023 Tribunal had no evidence and relied on Dr C's opinion of 'potential harm' not actual harm which could apply to any doctor. She said there has never been any evidence of harm to patients or any patient complaints.

23. Dr Myhill explained that she set up her website during the pandemic which was for no financial gain but to make information freely available. She said that on the website she disseminates useful information to members of the public and as her knowledge evolves, she can add to it. Dr Myhill told the Tribunal that the website has been reviewed by Dr D and he had commented that the website was of a '*good standard and nobody could question Dr Myhill's good intentions*'. She said the GMC experts did not have any experience of treating patients with covid with nutritional supplements and that none of her patients died of Covid. She said that the interventions are highly effective.

24. Dr Myhill was asked whether she thought as a doctor she had more of a responsibility than ordinary members of the public offering views on the internet would have on medical issues. Dr Myhill accepted that as a doctor she would have an enhanced credibility. Dr Myhill said that it was important that the information that she provided was scientifically sound, intrinsically safe and accessible.

25. When asked about an article about the effectiveness of wearing of masks during covid on her website Dr Myhill said that her opinions are always evidence based. She said that her website is constantly questioned by members of the public via Facebook which she actively engages with. If she is not correct, she changes the website. Her evidence was that she could not find any evidence about the effective use of masks but had not tried very hard to source opinion. She said that she had received regulatory sanctions in the past so she took the covid material down. She said that there may still be copycat websites on the internet which she had no control of.

26. When asked how she had addressed the concerns her misconduct had on the wider public interest Dr Myhill said that her website is useful to members of the public. She said that she has written books and won awards for these books. She said that during covid the public were told to stay at home and any doctor who spoke out was sanctioned by the GMC.

27. When asked how she had addressed the concerns her misconduct had on professional standards Dr Myhill said that the GMC experts were selective and not front line doctors. She said that she has produced a huge body of evidence of her work with the general public and that she is a good doctor.

28. When asked how she had addressed the concerns her misconduct had on the protection and promotion of the health and safety of the public Dr Myhill said that she has published online articles, written books and lectures widely which protects the general public.

29. Dr Myhill told the Tribunal that Patient B was a friend and neighbour and the concerns were reported by her Responsible Office. She said that Patient B was terrified of going into hospital as he thought he would die of Covid if admitted. She said that the fall occurred over a bank holiday weekend, and she advised Vitamin C and D to ensure that Patient B had the best chance of surviving Covid. She said that he did get Covid in hospital but there was no lasting damage because of the delay in admission. Dr Myhill accepted that in hindsight she could have done better, and should have sent Patient B to hospital sooner.

30. Dr Myhill told the Tribunal that she didn't prescribe Diazepam for Patient B as he already had it. She said that when Patient B's wife suggested Diazepam to make him more comfortable, she may have agreed to 2mg being reasonable but that she could not remember. She said that she probably did have involvement in the Diazepam but would 'hate' to say for sure. The January 2023 Tribunal heard evidence that Dr Myhill had brought the Diazepam with her when she visited Patient B.

31. The Tribunal received the following documentary evidence:

- Record of Determinations 7 November - 27 Jan 2023;
- Correspondence between the GMC between March 2023 and August 2023;
- Dr Myhill's research in the use of vitamins and supplements and comments on the GMC expert reports.

Submissions

GMC Submissions

32. On behalf of the GMC, Ms Emsley-Smith reminded the Tribunal of the findings of the January 2023 Tribunal. She said that the January 2023 Tribunal determined that 10,000 international units of Vitamin D per day is not universally safe. Dr Myhill does not accept this

decision and therefore there is no real reflection from her in that regard. She reminded this Tribunal that the January 2023 Tribunal found there were health risks associated in “*mega dosing*” Vitamin C and that Dr Myhill should have reflected those risks on her website. She submitted that Dr Myhill has not reflected at all and has demonstrated no insight, for example the previous Tribunal found that continued use of iodine could cause toxicity but there was no information of the risks on the website. Ms Emsley-Smith said that rather than reflect Dr Myhill accuses Dr E of deliberately misleading the January 2023 Tribunal.

33. Ms Emsley-Smith submitted that what the Tribunal has seen and heard today does not address the ongoing concerns about the material Dr Myhill placed on the internet. She submitted that if Dr Myhill is not subject to restrictions, then internet advice relating to the use of these agents will return. In relation to patient safety, Ms Emsley-Smith said that Dr Myhill does not accept any toxicity risk. She said that Dr Myhill does not accept the January 2023 Tribunal’s findings and the opinions of the experts and as a consequence Dr Myhill’s actions have undermined public health. She said that good doctors reflect and have regard to the opinions of others. She said that good doctors do not disregard expert opinions as an attempt to mislead. She submitted that the Tribunal has heard nothing from Dr Myhill that resembles reflection even if she still disagreed with the expert opinion. Dr Myhill was dismissive of the experts and does not demonstrate any professional respect of fellow practitioners.

34. Ms Emsley-Smith said that the January 2023 Tribunal’s finding in relation to Patient B was the failure to correct the initial error and that Dr Myhill provided it with no evidence of reflection and insight. She submitted that there is no evidence of reflection and insight by Dr Myhill of her treatment of Patient B today.

35. Ms Emsley-Smith submitted that all of the aggravating factors identified by the January 2023 Tribunal remain today and that the concerns in respect of the overarching objective remain. Ms Emsley-Smith submitted that Dr Myhill’s fitness to practise remains impaired.

Dr Myhill’s submissions

36. Dr Myhill said that nutritional supplements do not require a licence and are entirely safe. She referred the Tribunal to the evidence she has provided and the research she has undertaken. She submitted that she had provided new information to the Tribunal.

37. Dr Myhill said with respect of her care of Patient B she realises she could have done better. She said that this occurred at the start of Covid and Patient B and his family were terrified of covid and being admitted to hospital. She said at the time she thought she was doing a good job. She explained that given her history with the GMC it is natural that she is suspicious. She said that she wishes to practise as a naturopath without interference from the GMC.

38. In summary, Dr Myhill said that she is a good doctor who has been treated unfairly by the GMC over 20 years despite no previous fitness to practise findings against her. She referred to the January 2023 Tribunal findings on mitigating factors. She said that she believes that she has more than balanced the GMC experts' opinions. Dr Myhill said that she has demonstrated insight and provided evidence as to why she considers the hearing in January 2023 was unfair. She said that there has been no harm to patients. She said that she has comprehensively demonstrated that she has kept her medical knowledge up to date and has provided new information that should result in a different decision than that made by the January 2023 Tribunal.

39. Dr Myhill submitted that her fitness to practise is not impaired as she is no risk to patient safety and that her actions do not adversely affect the public interest.

The Relevant Legal Principles

40. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. This Tribunal is aware that it is for Dr Myhill to satisfy it that she would be safe to return to unrestricted practise.

41. This Tribunal must determine whether Dr Myhill's fitness to practise is impaired today, taking into account Dr Myhill's 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.

The Tribunal's Determination on Impairment

42. The January 2023 Tribunal considered Dr Myhill's misconduct breached the principles in the following paragraphs of Good Medical Practice (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.

15. You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:

a. adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient

b. promptly provide or arrange suitable advice, investigations or treatment where necessary

c. refer a patient to another practitioner when this serves the patient's needs

16. In providing clinical care you must:

- a. *prescribe drugs or treatment, including repeat prescriptions, only when you have adequate knowledge of the patient’s health and are satisfied that the drugs or treatment serve the patient’s needs.*
 - b. *provide effective treatments based on the best available evidence.*
22. *You must take part in systems of quality assurance and quality improvement to promote patient safety. This includes:*
- a. *...*
 - b. *regularly reflecting on your standards of practice and the care you provide*
49. *You must work in partnership with patients, sharing with them the information they will need to make decisions about their care...*
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.*
70. *When advertising your services, you must make sure the information you publish is factual and can be checked, and does not exploit patients’ vulnerability or lack of medical knowledge.*
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.’*
43. Dr Myhill provided the Tribunal with evidence relating to her research and references on vitamins and supplements, stating in her oral evidence that this was new evidence and demonstrated insight. In her oral evidence Dr Myhill demonstrated some limited insight into her treatment of Patient B, in that she accepted that she should have acted earlier in arranging hospitalisation.
44. It was clear to the Tribunal that Dr Myhill has not accepted the findings of the January 2023 Tribunal and rejects the need for this review of her sanction. Rather Dr Myhill firmly wanted to use this opportunity to revisit the January 2023 Tribunal’s findings because she considered the hearing itself to have been unfair, the decisions materially flawed and the

sanction unjust. Dr Myhill considers a review of whether she is fit to practise “*irrelevant*” as she no longer wishes to practise as a doctor.

45. The Tribunal acknowledged that Dr Myhill has done a lot of reading and research around the use of vitamins and supplements but there is no evidence that this was balanced reading. Indeed, when questioned, Dr Myhill accepted that the purpose of her reading and evidence base put before the Tribunal was to evidence that she had a “*Bolam defence*” and that a different decision should have been made by the January 2023 Tribunal. The Tribunal did not consider this to be consistent with insight, reflection or remediation. Whilst the Tribunal was of the view that this could be considered as evidence of CPD to a degree, Dr Myhill had not demonstrated balanced reading or targeted training. Instead she had sought to evidence her original position and defend the same.

46. Dr Myhill criticised the GMC, both GMC experts and GMC Counsel. Whilst she stated that she no longer wished to be associated with her Regulator she constantly refers to herself as a ‘good doctor’. Dr Myhill did not demonstrate reflection on the need for investigation and the maintenance of regulatory standards.

47. In relation to Dr Myhill’s website the Tribunal considered that she failed to respond to the duties of a doctor when designing the website’s content and whilst she removed some information from it, this was only to avoid further conflict with the GMC. The Tribunal considered this demonstrated limited insight.

48. The Tribunal noted that the persuasive burden is on Dr Myhill to demonstrate that she has gained insight, has remediated and her fitness to practise is not impaired. However, she has provided very limited evidence that her approach has changed. Dr Myhill remains unwilling to recognise that she may not be right as she has failed entirely to give weight to views other than her own. The Tribunal considered that Dr Myhill has focussed her research on material which asserts her beliefs and has an entrenched view. The Tribunal is of the opinion that Dr Myhill’s actions demonstrate confirmation bias and that she has persuaded herself that she is right to the exclusion of competing views and evidence. In the Tribunal’s view, doctors should be welcome to challenge and willing to reflect on their own beliefs and behaviours.

49. The Tribunal considered that the situation has not changed since January 2023. Dr Myhill has provided no real evidence of insight, neither has she attempted to remediate the matters raised by the January 2023 Tribunal hearing and therefore there remains an immediate and high risk of repetition.

50. Whilst the Tribunal noted that Dr Myhill has not worked as a doctor since 2020, it considered that given the lack of insight and remediation and the risk of repetition that there is a risk to patient safety.

51. The Tribunal considered that, the promotion and maintenance of public confidence in the medical profession, and the promotion and maintenance of proper professional

standards and conduct for members of that profession, would be undermined if, in the light of Dr Myhill's lack of insight, a finding of impairment were not made.

52. This Tribunal has therefore determined that Dr Myhill's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 17/11/2023

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

Submissions

2. On behalf of the GMC, Ms Emsley-Smith referred the Tribunal to the Sanctions Guidance (November 2020) (the SG). Ms Emsley-Smith reminded the Tribunal that it had determined that little has changed since January 2023. She said that save for Dr Myhill's engagement the aggravating and mitigating factors remain the same.

3. Ms Emsley-Smith acknowledged the glimmer of insight Dr Myhill has shown with regard to Patient B.

4. Ms Emsley-Smith submitted that taking no action would not be appropriate as there are no exceptional circumstances in this case. She said that conditions would not be appropriate to meet the concerns identified, nor would they be workable in the context of this case as the findings are too serious.

5. Ms Emsley-Smith submitted that a further period of suspension would be appropriate as a deterrent effect, to send a signal and to allow Dr Myhill the opportunity to show insight and remediate.

6. Dr Myhill submitted that there are exceptional circumstances and therefore no action should be taken. She said that she has relinquished her licence to practise, has not paid any GMC fees since August 2020 and had previously pursued Voluntary Erasure. She submitted that the GMC has no jurisdiction over her. Dr Myhill said she does not accept that suspension is appropriate nor proportionate.

The Tribunal's Determination

7. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement. There is no burden or standard of proof at this stage. The Tribunal has given careful consideration to the SG. It reminded itself that the purpose of a sanction is not to be punitive although it may have a punitive effect.

8. The Tribunal has borne in mind that in deciding what sanction, if any, to impose, it should consider the sanctions available, starting with the least restrictive. Throughout its deliberations, the Tribunal has taken into account the overarching objective, and applied the principle of proportionality, balancing Dr Myhill’s interests with the public interest.

9. The Tribunal has taken into account earlier determinations on the facts and on impairment, the SG and GMP, the submissions of Ms Emsley-Smith on behalf of the GMC, and those made by Dr Myhill.

Aggravating factors

10. The Tribunal found that Dr Myhill has demonstrated no real evidence of insight or remediation into her conduct and the impact of her treatment decisions on the well-being and health of Patient B. In relation to her website Dr Myhill has demonstrated no insight into the risks she posed and the impact on members of the public. The Tribunal noted that Dr Myhill does not accept that she lacks insight.

Mitigating factors

11. The Tribunal noted that prior to the January 2023 hearing Dr Myhill had no previous findings of misconduct made against her and there had been no specific complaints from patients.

Undertakings

12. No undertakings were offered.

No action

13. In reaching its decision as to the appropriate sanction, if any, to impose in Dr Myhill’s case, the Tribunal first considered whether to conclude the case by taking no action.

14. The Tribunal noted Dr Myhill’s submissions that she has relinquished her licence to practise, paid no GMC fees and not practised as a doctor since 2020. However, the Tribunal did not consider these to be exceptional circumstances.

15. The Tribunal determined that in view of the serious nature of its findings on impairment, it would not be sufficient, proportionate or in the public interest to conclude Dr Myhill’s case by taking no action.

Conditions

16. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Myhill’s registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

17. The Tribunal noted paragraph 82 of the SG which states:

'82 Conditions are likely to be workable where:

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

18. The Tribunal is of the opinion that a period of conditional registration would not adequately reflect the serious nature of Dr Myhill's misconduct; nor, in a case where Dr Myhill has demonstrated limited insight, could conditions be devised that would protect the public interest and maintain public confidence in the medical profession.

19. The Tribunal has, therefore, determined that it would not be sufficient to direct the imposition of conditions on Dr Myhill's registration.

Suspension

20. The Tribunal then went on to consider whether imposing a period of suspension on Dr Myhill's registration would be appropriate and proportionate.

21. The Tribunal acknowledged that suspension has a deterrent effect and can be used as a signal to the doctor, the profession, and to the public about what is regarded as behaviour unbefitting a registered doctor.

22. The Tribunal considered the following paragraphs of the SG are engaged:

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).

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.*

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.*

23. The Tribunal found that there was a real risk of repetition for the reasons set out in its impairment determination.

24. The Tribunal considered that Dr Myhill has shown limited willingness to develop insight and to remediate. However, the Tribunal recognised the efforts that Dr Myhill made in regard to her reading and research into vitamins and supplements. It noted that Dr Myhill has engaged in these proceedings and considered that she has the potential to gain insight and remediate, should she choose to do so.

25. The Tribunal considered that Dr Myhill's misconduct was not so serious that it is fundamentally incompatible with continued registration.

26. The Tribunal was satisfied that a sanction of suspension would be appropriate and sufficient to mark the gravity of Dr Myhill's misconduct. Further, a period of suspension would promote and maintain public confidence in the medical profession and proper standards of conduct and to safeguard the health, safety and wellbeing of the public. Taking all these factors into account, the Tribunal concluded that the sanction of suspension was appropriate in this case.

27. The Tribunal determined to suspend Dr Myhill's registration for 12 months. The Tribunal was of the opinion that a longer period of suspension was necessary as little has changed since the previous hearing in January 2023 and considered that 12 months would give Dr Myhill the opportunity to reflect on her misconduct, gain insight and remediate.

28. The Tribunal considered whether to erase Dr Myhill's name from the medical register. Ultimately the decision was a nuanced one due to the limited insight shown by Dr Myhill and her unwillingness to accept the jurisdiction of the GMC and the importance of its regulatory function. However, the Tribunal drew back from erasure as a sanction as a period of suspension can adequately promote the objectives of the overarching objective. Further by suspending, rather than erasing Dr Myhill's name from the medical register, Dr Myhill has an opportunity to demonstrate meaningful insight and remediation. If she can do that then the public would gain from her considerable medical expertise built up over a period of 40 years.

Review

29. The Tribunal determined to direct a review of Dr Myhill's case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought. The Tribunal wishes to clarify that at the review hearing, it will be Dr Myhill's responsibility to demonstrate how she has remediated her misconduct. It therefore may assist the reviewing Tribunal if Dr Myhill provides:

- Evidence of insight, reflection and remediation

30. The MPTS will send Dr Myhill a letter informing her of her right of appeal and when the direction and the new sanction will come into effect. The current order of suspension will remain in place during the appeal period.

ANNEX A – 16/11/2023

Application to call witnesses under Rule 22(d) and 34(1)

1. The Tribunal was provided with written skeleton arguments from Dr Myhill and Ms Emsley-Smith, Counsel on behalf of the GMC. Dr Myhill also supplied the Tribunal with a 1352 page preliminary argument bundle.

Submissions

2. Dr Myhill told the Tribunal, that she wishes to call three witnesses Mrs F Legally Qualified Chair of the January 2023 Tribunal, Dr C and Dr E, both GMC expert witnesses at that hearing. Dr Myhill said that the witnesses are necessary in order for her to be able to cross examine them in order to demonstrate that her hearing in January 2023 was unfair. She said that she wishes to present new facts which demonstrate evidence of insight and remediation. Dr Myhill submitted that the Tribunal should allow the witnesses to give evidence as the January 2023 Tribunal was misled resulting in unfairness of the proceedings. She said that the processes followed to date have not been in accordance with her Human Rights, specifically her freedom of expression and right to a fair trial.

3. Ms Emsley-Smith stated that the submissions made by Dr Myhill are that which could be heard by the High Court on any appeal rather than submissions relevant to a review hearing. She reminded the Tribunal that it does not have the power to revisit the findings of fact, impairment and sanction decisions made by the January 2023 Tribunal. Further, she refuted any suggestion of bad faith on the part of the GMC legal team and the GMC, then and now.

The Tribunal's decision

Background

4. Dr Myhill's registration was made subject to an order of suspension for a period of nine months following a hearing in January 2023 ('the January 2023 Tribunal') which found that her fitness to practise was impaired by reason of misconduct and directed a review.

5. The Tribunal has noted Rules 29(2) and 34(1) which state:

'Rule 29(2)

(2) Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.

Rule 34(1)

(1) The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.'

6. The Tribunal must consider whether allowing the witnesses to be called is fair and relevant.
7. This Tribunal does not have the power to revisit the findings of the January 2023 Tribunal. The purpose of a review hearing is for this Tribunal to determine whether Dr Myhill's fitness to practise remains impaired by reason of her misconduct. It must consider Dr Myhill's insight, remediation and the risk of repetition.
8. Given that the Tribunal cannot revisit the determinations made by the January 2023 Tribunal, it was not satisfied that calling the witnesses is relevant to its duty in determining Dr Myhill's current fitness to practise. There is nothing to evidence that any of these witnesses could possibly be in a position to assist the Tribunal in determining the matters before it at this review. Much of Dr Myhill's arguments focus on what she feels is an injustice created by the January 2023 Tribunal's findings, however, that is not a matter that this Tribunal can revisit.
9. In relation to fairness, the Tribunal noted that Dr Myhill will be permitted to give evidence, should she choose to do so, and/or address the Tribunal by way of submissions.
10. Any consideration as to the success or otherwise of setting aside the witness summons by Cardiff County Court, including any possible appeal of that decision, is not a consideration for this Tribunal. The Tribunal must determine for itself whether it is fair and relevant to call the witnesses Dr Myhill seeks.
11. Dr Myhill made representations about the lateness of receiving the GMC's skeleton argument and a further response from the MPTS Case Management. Although Dr Myhill did not apply for an adjournment to further consider the same, the Tribunal considered whether fairness to Dr Myhill necessitated a delay in the hearing. The GMC skeleton argument set out the Tribunal's powers at a review hearing but otherwise did not add anything relevant to the Tribunal's decision. The GMC had consistently communicated to Dr Myhill since June 2023 that they objected to the three witnesses being called and why and therefore the Tribunal did not consider that any further period of consideration with the papers would assist when weighed against the delay that would be caused by adjourning.

12. Accordingly, the Tribunal determined to refuse Dr Myhill's application to call witnesses.