OUTER HOUSE, COURT OF SESSION

[2025] CSOH 114

P973/25

OPINION OF LADY TAIT

in the Petition of

V

Petitioner

for

review under section 41A(10) of the Medical Act 1983

Petitioner: Reid KC; Medical and Dental Defence Union of Scotland
Respondent: Byrne KC; Anderson Strathern LLP

5 December 2025

Introduction

[1] The petitioner is a general medical practitioner. He is registered with the General Medical Council ("GMC"). The respondent is the GMC. The petitioner seeks review by the court of an order made under section 41A of the Medical Act 1983 ("the 1983 Act") by an Interim Order Tribunal ("IOT") of the Medical Practitioners Tribunal Service ("MPTS").

[2] On 18 August 2025, the IOT determined that an interim suspension order should be imposed on the petitioner for 15 months.

[3] On 29 August 2025, an application was made on the petitioner's behalf to the Assistant Registrar of the GMC seeking an early review of the interim suspension order. On 3 September 2025, that request was refused.

[4] The petitioner avers that he first received notice (due to his absence on holiday) of the IOT hearing on the day prior to the hearing. He immediately instructed representation through his defence union MDDUS. The IOT refused the petitioner's representative's motion to postpone the tribunal with the consequence that the representative withdrew from the hearing. The IOT proceeded in the absence of the petitioner and of any representation albeit the representative remained to observe the hearing. The IOT gave the following reasons:

> "The Tribunal took the view that all reasonable efforts were made to serve notice of this hearing upon [the petitioner] and noted that neither the GMC nor the MPTS has had any responses or communication from [the petitioner]. It balanced the interests of [the petitioner] with the public interest but determined that it was in the public interest to proceed today taking into account the serious concerns raised in this case, [the petitioner's] previous fitness to practise history and that he has face to face patient occupational health assessments planned for this week."

[5] The petitioner seeks:

i. an order, in terms of section 41A(10)(a) of the 1983 Act, terminating the interim suspension order imposed on the petitioner on 18 August 2025; and

ii. declarator that (a) the decision to proceed with the hearing on 18 August 2025 and (b) to impose an interim suspension were unlawful.

Applicable law

[6] Part V of the 1983 Act makes provision for the regulation of the fitness to practise of doctors. Where an allegation is made to the GMC against a registered doctor that their fitness to practise is impaired, the Investigation Committee of the GMC shall investigate the allegation and decide whether it should be considered by a Medical Practitioner Tribunal ("MPT"): section 35C (4). Where the Investigation Committee is of the opinion that an interim order should be considered, they shall direct the Registrar to refer the matter to the

MPTS: section 35C (8). Where such a referral is made, the MPTS must arrange for an IOT hearing to take place: section 41A(1).

[7] Section 41A(1) of the 1983 Act provides:

> "Where an Interim Order Tribunal … are satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of a fully registered person, for the registration of that person to be suspended or to be made subject to conditions, the Tribunal may make an order –
>
> (a) that his registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding eighteen months as may be specified in the order (an 'interim suspension order'); or
> (b) that his registration shall be conditional on his compliance, during such period not exceeding eighteen months as may be specified in the order, with such requirements so specified as the Tribunal think fit to impose (an 'order for interim conditional registration')."

[8] Section 41A(4) of the 1983 Act provides:

> "No order under subsection (1) … shall be made by a Tribunal in respect of any person unless he has been afforded an opportunity of appearing before the Tribunal and being heard on the question of whether such an order should be made in his case."

[9] There is no right of appeal against a decision of an IOT. Where an individual wishes to challenge a decision of an IOT, an application may be made to the court under section 41A(10): *Kumar* v *General Medical Council* [2013] EWHC 452 (Admin).

[10] Section 41A(10) provides:

> "Where an order has effect under any provision of this section, the relevant court may –
> (a) in the case of an interim suspension order, terminate the suspension;
> (b) in the case of an order for interim conditional registration, revoke or vary any condition imposed by the order;
> (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),
>
> and the decision of the relevant court under any application under this subsection shall be final."

[11] When exercising its jurisdiction under section 41A(10), the court is exercising an original (not a review or appellate) jurisdiction: *General Medical Council* v *Hiew* [2007] 1 WLR 2007 at paragraphs 26-33, followed in *GMC* v *K* 2023 SC 1 at paragraph 6.

Petitioner's submissions

[12] The interim suspension order of 18 August 2025 should be terminated. The procedure before the IOT was unfair and the refusal to fix a review hearing was irrational. Those flaws are significant. While the court exercises an original jurisdiction in this matter, the respondent argues that substantial weight should be given to the views of the IOT. However, given those decisions followed a manifestly unfair process, they should be given no material weight in the present application to the court. Rather, an interim suspension order cannot properly be said to be necessary and accordingly it should be terminated.

[13] In practical terms, there are three reasons for which an interim order can be imposed: (a) protection of the public; (b) public interest; or (c) interests of the registered individual. In the present case, the IOT relied upon (a) and (b). Where such a reason exists, an interim order may be made if it is "necessary". The requirement that an interim order be necessary imports the requirement that it be proportionate: *GMC* v *K* above at paragraph 24. Proportionality of any order is considered in a four-stage approach to determine (i) whether its objective is sufficiently important to justify the limitation of a fundamental right; (ii) whether it is rationally connected to the objective; (iii) whether a less intrusive measure could have been used; and (iv) whether, balancing the severity of the measure's effect on the rights of the person to whom it applies against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter: *Bank Mellat* v *HM Treasury* [2014] AC 700 at paragraph 74.

[14] The imposition of an interim order will often involve an interference with Convention rights: *Nursing and Midwifery Council, Petitioner* 2025 SLT 777 at paragraph 12. That underscores the importance of undertaking a proportionality assessment. A result which is not proportionate is not lawful: *ibid* at paragraph 13. What is required is that:

> "[t]he terms of the order actually imposed must be proportionate. If a measure less intrusive to the member can be used to achieve the legitimate objective, that is what should be done. If the legitimate aim can be achieved by a shorter order, the imposition of conditions rather than suspension, or the continuation of an order with fewer conditions than currently in place, the less restrictive alternative should be chosen." (*ibid*)

[15] Only in exceptional cases will an interim order be justified by reference to the public interest alone: *GMC* v *K* above at paragraph 21, approving *R (on the application of Shiekh)* v *General Dental Council* [2007] EWHC 2972 (Admin) at paragraph 16; *Nursing and Midwifery Council* v *Persand* [2023] EWHC 3356 (Admin) at paragraph 22. The principles to be applied by the court when considering an application to extend an interim order are set out by Arden LJ in *Hiew* above at paragraphs 26-33. Those were summarised, and adopted, by the Inner House in *B* v *GMC* 2022 SLT 961 at paragraph 9 and approved by the Inner House in *GMC* v *K* above at paragraph 6. The same principles apply when considering, as here, whether to make an order in the first place: *Hiew* above at paragraph 28.

[16] Notwithstanding section 41A(4) of the 1983 Act, Rule 31 of the General Medical Council (Fitness to Practise) Rules 2004 ("the 2004 Rules") allows an IOT to proceed in the absence of the individual concerned. That should only be done where satisfied the individual has voluntarily absented themselves and even then they must proceed with the upmost caution and ensure the case is properly tested: *Yusuf* v *Royal Pharmaceutical Society of Great Britain* [2009] EWHC 867 (Admin). This arises in the context of the importance of the right to be heard and a fair hearing more generally: *R (on the application of Osborne)* v *Parole*

Board [2014] AC 1115 at paragraph 68. Standing the submission made on behalf of the respondent that it mattered not that the petitioner attended or was represented before the IOT (notwithstanding the terms of section 41A(4) of the 1983 Act) because there was nothing he could have said which would have changed the result, the observations of Lord Phillips in *Secretary of State for the Home Department* v *AF* (No.3) [2010] 2 AC 269 at paragraph 63 are also apposite: "the feelings of resentment that will be aroused if a party to legal proceedings is placed in a position where it is impossible for him to influence the result." The respondent's position is submitted to be an afront not only to the clear terms of section 41A(4) of the 1983 Act but also to the basic common law requirements of fairness.

[17] The allegations against the petitioner are submitted to date back almost 20 years. The events leading up to, and at, the IOT hearing on 18 August 2025 are spoken to in the affidavit of the petitioner's solicitor, James Rowley. He also speaks to the application for a review which was refused by the Assistant Registrar.

Fitness to practise history

[18] In presenting its case to the IOT, the respondent relied upon the petitioner's fitness to practise history. In making its decision to impose an interim suspension order, the IOT relied upon that history. The history was incorrect and should not properly or responsibly have been presented.

[19] In 2015 the petitioner was found to have retained photographs of patients without adequate consent. The photographs had been taken for a proper purpose. There was no suggestion that the photographs were in any way improper. There was no suggestion that the petitioner had been dishonest in any way. These proceedings had little, if any, relevance to the matter before the IOT. An order of conditions was imposed for a period of 3 years.

[20] In 2023 the petitioner was subject to proceedings in which there was no finding of misconduct and, consequently, no finding of impairment of his fitness to practise. The matters which were established related to, first, not having offered a chaperone to four patients when under no duty to provide a chaperone. Secondly, they related to examining the buttocks of two patients for needle marks. Those examinations were found to have been clinically indicated. There was no finding that there was any sexual motivation for any of these matters. These proceedings had no relevance to the matter before the IOT. They should not have been presented to the IOT. If they were presented, they ought to have been presented in their proper context (which they were not). A formal warning was made following no finding of a breach of conditions. The substantive hearing made a finding of no misconduct and no impairment of fitness to practise.

[21] On 20 November 2020, the petitioner had been made subject to an interim conditions of practice order which required, amongst other things, that "except in life threatening emergencies you must not carry out face-to-face consultations without a chaperone present." An allegation was made that the petitioner had not complied with that condition. At a hearing in October 2024, the GMC accepted that a chaperone was present during the examination in question. The allegation which was ultimately upheld was that the patient was not aware of the chaperone observing and had not provided their consent. The petitioner had not, as the GMC accepted, failed to comply with the interim conditions of practice order. Counsel for the respondent submitted at the IOT hearing:

> "[The petitioner] as this Tribunal knows, has a history of inappropriate conduct in similar medical examination circumstances and has previously breached an interim order of conditions."

That submission was incorrect and should not have been made. There had been no finding of a previous breach of interim conditions.

[22] Separately, counsel for the respondent submitted to the IOT that the petitioner had a "vast history of inappropriate conduct of a similar nature to the index concerns". That submission was incorrect and should not have been made. At no stage has a finding been made against the petitioner of inappropriate conduct or sexual misconduct. Such a submission, to be properly and responsibly made, required to be grounded in previous findings of such behaviour. Charges of such conduct had not been proven.

Decision of the IOT and refusal of review

[23] The decision of the IOT is (a) vitiated by procedural unfairness; and (b) is neither necessary nor proportionate. It is, accordingly, unlawful.

[24] The decision to (a) refuse to adjourn the hearing; and (b) proceed in the absence of the petitioner was unlawful. The petitioner had taken all reasonable steps having received notice of the IOT hearing. He had not received notice earlier because he was on holiday during which he did not check emails or receive telephone calls. There can be no proper or responsible criticism of a person not doing so during a holiday. The request for an adjournment was reasonable. The reasons offered for refusing to adjourn are perfunctory in nature. There was no urgency for the IOT hearing to take place. The allegations all dated from the period 2007 to 2013. The respondent had been aware of the allegations for approximately 2 months. The urgency claimed by the respondent, and accepted by the IOT, was artificial and was not evidenced by the actions in the months following receipt of the allegations. It was not in the interests of justice that the IOT hearing proceed when it did and proceed without the petitioner in attendance and/or represented. It excluded him from

a hearing in which he wished to participate. The suggestion that the petitioner was represented by the continued presence of his solicitor is untenable. It should be treated with the ordinary level of suspicion for such reasons: *Chief Constable of Lothian and Borders* v *Lothian and Borders Police Board* 2015 SLT 315 at paragraph 65. In all those circumstances, the decision of the IOT that an interim suspension order was appropriate should be given no material weight by the court.

[25] The substantive decision was unlawful. The evidence in support of the allegations was limited. It was a secondary report of concerns said to have been raised by unidentified individuals. There was insufficient information to allow the petitioner to investigate the allegations. It was understood that at least one allegation had been reported to the police but there was no ongoing police investigation. What evidence there was before the IOT was all hearsay and lacked any meaningful detail. Separately, and in any event, the IOT hearing proceeded on a material error of fact as to past fitness to practise proceedings.

[26] In such circumstances, it was irrational to conclude that an interim order was necessary either for the protection of the public or in the public interest. It was irrational to conclude that an interim suspension order was proportionate.

[27] Separately, the decision by the Assistant Registrar of 2 September 2025 was irrational and unlawful. First, an early review hearing is the recognised means of allowing a practitioner who could not participate in the original decision to participate in the interim order decision. That the petitioner could not attend the IOT hearing and was not represented at the hearing was a strong factor in support of a review hearing being allowed. Secondly, there was new information available. That was the evidence that the petitioner could work remotely. That information was plainly relevant to any proportionality assessment. The proposition that an interim suspension order was the least restrictive

measure is rendered untenable by that information. Whether, in light of that (and any other) information, an interim suspension order remained necessary was primarily a decision for the MPTS and not the Assistant Registrar of the respondent. Not even allowing the MPTS to consider the issue was irrational. Thirdly, and fundamentally, the IOT had proceeded on the basis of no submission by or on behalf of the petitioner. The availability of a such a submission was plainly relevant. Finally, the IOT hearing had proceeded on false and unreliable information about the petitioner's fitness to practise history. Whether correcting those errors would make a difference was for the MPTS, and not the respondent, to assess. In all the circumstances, the decision of the Assistant Registrar was unlawful. That unlawful decision has necessitated these proceedings.

Should the interim order be terminated?

[28] It is for the respondent to show, and the court to be satisfied, that the order is necessary. Accordingly, although the petitioner brings these proceedings seeking termination of the order, the proper question is: is an interim suspension order necessary? There is no starting assumption that it is because it has been made by the IOT.

[29] The order is not necessary in the public interest. There is nothing exceptional about the circumstances which require such an order. Nothing but a perfunctory statement is offered by the IOT to justify the public interest. It is precisely the sort of statement deprecated by the court in England: *Persand* above at paragraph 22.

[30] The order is not necessary for the protection of members of the public. It is accepted that parts (a) and (b) of *Bank Mellat* above are satisfied. However, parts (c) and (d) are not. Suspension is not the least intrusive means. The risk could be managed proportionately by the formulation of appropriate conditions.

[31] In circumstances where the petitioner can work entirely remotely, as his employer confirms, his continuing working presents no risk to the public. In any event, the allegations are so old and so lacking in any meaningful detail, that they do not render any form of interim order necessary. There is no reliable evidence suggesting that the petitioner presents any risk to the public if allowed to practise medicine without restriction. There is no reliable evidence suggesting the public interest demands that his ability to practise medicine be restricted whilst the allegations are investigated. Separately, if either public safety or the public interest suggests some restriction on his ability to practise is necessary, suspending his ability to practise is not proportionate. It is not the least restrictive means by which public safety and/or the public interest could be protected. Given the consequences for the petitioner of his ability to practise medicine being suspended, it does not strike a fair balance between his interests and the interests of the public being protected. The underlying allegations are based upon limited evidence. They are historical. They do not imply a current impairment of his fitness to practise.

[32] In addition to working by remote means, the petitioner could have an observer during any consultation. There could be a condition that any consultation be recorded. There could be a condition requiring a random audit or review of such recordings. There are plainly less restrictive options than suspending the petitioner's registration. Separately, the order is not proportionate in the strict sense. The historical nature of the allegations, the lack of meaningful specification and the impact upon the petitioner of being unable to earn an income all weigh against a suspension order. The length of the period of interim suspension is also inconsistent with its overall proportionality. Given the historical nature of the allegations, the petitioner's age and the fact that any period of interim suspension is irrelevant to any final disposal (in the event misconduct is established and fitness to practise

is found to be impaired, both of which are denied), the interim suspension order is again not proportionate.

[33] As a matter of fact, the petitioner has never breached an order for interim conditional registration. There is no evidence to suggest that he would not comply with any conditions imposed upon his registration. It is clear that his employer is prepared to support the petitioner should workable conditions be imposed.

[34] In all the circumstances, an interim suspension order is not proportionate. Accordingly, it is not necessary and should be terminated.

Remedies

[35] The primary remedy sought by the petitioner is termination of the interim suspension order. That remedy cannot (and should not) be withheld because there may be an arguable case that an order for interim conditional registration be made instead. Parliament has given the court a blunt choice under section 41A(10): if the interim order is not "necessary" it must be terminated. Any complaint by the respondent about this consequence arises as a direct result of the refusal by its Assistant Registrar to fix a review hearing. At such a hearing, an order for interim conditional registration could have been made.

[36] If, contrary to the petitioner's primary submission, the court is satisfied that interim suspension is necessary, a period of 15 months is not necessary. A much shorter period should be prescribed, for example 3 months. This would ensure closer and more regular scrutiny of the necessity of the order: *Nursing and Midwifery Council* above.

[37] Whether to grant the declarators sought is a matter for the court's discretion. It is plain that the process adopted by the IOT hearing was contrary to the basic rules of natural

justice. It is also plain that it was irrational for the Assistant Registrar to refuse to fix a review hearing. That is especially so if the true reason, as represented at the interim orders hearing, was that the attendance of the petitioner could never have made any difference. It is also plain that the respondent does not consider anything to have gone wrong and/or their proceedings not to be subject to the normal and basic rules of natural justice. Being a petition regulated by RCS 14, the procedure is flexible and it would be competent to pronounce the declarators. But that is ultimately a subsidiary issue: the petitioner's primary submission is that the interim suspension order should be terminated. That is the primary remedy that he seeks.

[38] The petitioner invites the court to grant the prayer of the petition, to terminate the interim suspension order and to reserve meantime any question of expenses.

Respondent

[39] The motion for termination of the interim suspension ought to be refused.

[40] Suspension ought to meet the test laid down at section 41A(1) of the 1983 Act. An order of interim suspension can be justified on either or both of the following bases, namely it is (i) necessary for the protection of members of the public and/or (ii) otherwise in the public interest. Both limbs of the test are met.

[41] The court is the primary decision maker. As proceedings are at an interim stage, the court ought not to decide issues for final determination. It is entitled to consider whether the allegations could have merit but it should not determine facts: *Hiew* above at paragraphs 26, 31, and 33. The court should have regard to the IOT determination, give it such weight as is appropriate and pay it due respect because of the IOT's considerable

expertise and experience in upholding public standards and public confidence: *ibid* at paragraph 32; *Patel* v *General Medical Council* 2013 1 WLR 2694 at paragraph 6.

[42] The financial or personal prejudice to the petitioner is less important than maintaining the trust and confidence of the public in the medical profession. The consequences for the individual "[do] not make the order for suspension wrong if it is otherwise right": *Gupta* v *General Medical Council* [2002] 1 WLR 1691, 21. The public interest may require an interim order where a reasonable and properly informed member of the public would be offended or surprised to learn the petitioner was entitled to practise: *Patel* above at paragraph 30.

[43] Suspension is necessary to protect the public where the allegations give rise to a risk of harm to patients. The court will have regard to the seriousness of that risk: *GMC* v *Srinivas* [2012] EWHC 2513 (Admin) at paras 10((c)) and 13; *Hiew* above at paragraph 28. On the seriousness of the risk, a complaint of intimate examination of patients without clear clinical indication may be sufficiently serious to warrant suspension and an extension of the suspension: *Srinivas* above at paragraph 5. Such an allegation is "very serious" and is conduct which would "put the public at risk": *ibid* at paragraph 13. The clinical context is important: *GMC v K* above at paragraph 23. Allegations of a pattern of sexually inappropriate conduct is strongly indicative that conditions may not be sufficient: IOT, GMC Guidance 60(b).

[44] The court ought to start with the determination of the IOT. It is a specialist body, comprising of, *inter alia*, a registered doctor. Its experience and expertise in understanding risk to patients in a clinical setting and the public interest in preserving public confidence is deserving of considerable respect. The determination is itself persuasive. The court is entitled, and invited, to be persuaded that it is correct and to agree with it. Conditions are

not appropriate for the reasons given by the IOT at paragraph 21, number 6/2 of process. The petitioner has not fully or adequately complied with previous conditions placed upon him. That is a matter of considerable concern which tends to show conditions may not be effective. Reference is made to the reasons given by the Assistant Registrar on 2 September 2025, number 6/4 of process:

> "remote consultations would [not] fully discharge the concerns about [the petitioner]…I do not believe that virtual assessments could fully discharge the serious or sexual nature of the allegations".

In other words, video consultations would not remove risk. In any event, the allegations have a significantly voyeuristic character. The allegations involve inviting patients to expose themselves and to be viewed from behind in a revealing and inappropriate way. This conduct could just as effectively be deployed in person *via* video. The allegations of inappropriate touching are but one half of the conduct, to which the voyeuristic conduct is the other. Video consultations would guard against touching but not against inappropriate exposure without clinical need. Further, allegations which form a pattern of sexually inappropriate conduct towards patients strongly indicate conditions will be inadequate: MPTS 'Imposing interim orders – Guidance for the interim orders tribunal etc' at paragraph 60(b).

[45] The order is necessary to protect the public and is otherwise in the public interest. That is clear because of the seriousness of the allegations. The allegations are of a very serious nature which gives rise to a serious risk to patient safety. The public requires protection from very serious misconduct and sexual abuse.

[46] The following features of the allegations are submitted to be salient:

a. wide ranging allegations from multiple complainers of "sexual abuse", including reports of being "sexually assaulted during their medical examination by [the petitioner]";

b. intimate examination of the testicles, including comparing their size to a string of plastic balls;

c. unasked for prostate examinations on men under 30 years old;

d inviting male patients to strip naked and to do star jumps and mobility exercises while the petitioner watched from the rear;

e. intimate examination of the penis and retraction of the foreskin without gloves;

f. allegations from vulnerable male staff, including apprentices, by reason of age and ill health;

g. examinations not recorded in the medical records and no note of symptoms which would explain them.

[47] Taken together the allegations are of sexual exploitation, abuse and sexual assault in a clinical setting. An allegation of digital penetration without consent, or with consent obtained under false pretences, is particularly serious. They emanate from multiple patients who described strikingly similar conduct. Those allegations sit at the top end of the seriousness spectrum. They are not trivial.

[48] The respondent's second inventory of productions contains additional material obtained during the course of the GMC investigation, which was not before the IOT, but is relevant to the court's determination of this matter. The investigation is ongoing and not concluded. Considerable progress has been made. There are now 11 complainers who have come forward. The respondent has obtained four statements. They support the allegations. The court ought not to determine the facts which go to the allegations. However, the

allegations are supported by cogent and compelling evidence demonstrating the seriousness of the allegations if established. The statements (i) speak of the trust placed in the petitioner; (ii) provide an evidential basis for the allegations; and (iii) illustrate the harm caused to the witnesses. They vividly establish the type of risk which may crystalise if the petitioner continues to practise pending the resolution of the complaint without restrictions.

[49] The number of persons who have made a complaint is substantial and a relevant factor. The conduct appears widespread. The conduct has the potential to be of considerable public interest and concern. It is not indicative of a one-off incident or allegation. The similarity between complaints illustrates a pattern of behaviour which may prove to be a pattern of exploitation and abuse. The conduct may have caused harm, as spoken to by the witness statements. There are more statements to be obtained. At this stage, pending full investigation, suspension is appropriate.

[50] On any legitimate view of the facts and law, the allegations require an order of interim suspension to protect patients and in the public interest. Doctors are plainly in a position of considerable trust and responsibility over all members of society and especially vulnerable people, including young people. A precautionary approach is entirely appropriate and necessary to protect the public from risk and is in the public interest. In respect of the latter, whether suspension is required in the public interest, under reference to paragraphs 28 and 30 of *Patel* above, a member of the public would be concerned or offended to learn of the petitioner's ability to continue to practise in the face of such serious allegations in a clinical context.

[51] The respondent relied upon the petitioner's fitness to practise history before the IOT:

(i) The petitioner was found to have improperly retained and shared patient photographs without consent. One was of a patient's groin area taken at an

addiction service. The petitioner took photographs of patients without obtaining consent or making any notes. Photographs were shared on a team night out. The petitioner's conduct was held, or found proved, to be "misleading". The petitioner's fitness to practise was found to be impaired by reason of misconduct. It was found that the conduct was "inappropriate" and failed to adequately respect the dignity and privacy of the patient. It was so serious as to amount to serious professional misconduct.

(ii) In 2023 the petitioner was again subject to misconduct proceedings and misconduct was not upheld. The alleged misconduct related to the petitioner's failure to obtain the consent of patients in respect of the attendance of a chaperone. The attendance of a chaperone was a condition placed upon his practice in 2019. The committee determined that the petitioner's conduct was a breach of good medical practice. His conduct did not meet the standards required of a doctor and risked bringing the profession into disrepute such that it was necessary to issue the formal warning. The petitioner had not adequately complied with a condition placed upon his practice. That is material to whether the imposition of conditions instead of suspension would be effective.

[52] The court, in determining whether to terminate an interim suspension order, is not engaged in a "review" of the rationality or lawfulness of the IOT's determination. The question of an interim order was urgent. The petitioner, based upon the allegations, poses a potentially considerable risk to patients. The IOT was obligated to determine the question immediately for the protection of patients. The nature of the order is interim, not

permanent. It was fair and just in all the circumstances to proceed to determine the question *ad interim* for the protection of the public and in the public interest.

[53] The request for any early review turned on the content of the application. In essence that relied upon the petitioner meeting patients online. Such a condition would not give rise to a different outcome in the registrar's reasonable view. In any event this decision is not amenable to challenge under section 41A. The challenge is also incompetent.

Affidavit on behalf of the petitioner

[54] An affidavit of James Rowley dated 28 October 2025 was lodged. Mr Rowley is a practising solicitor in England and Wales. He is instructed by the MDDUS to represent the petitioner in relation to the fitness to practise proceedings. He speaks to the sequence of events from the point of his instruction to represent the petitioner at the IOT on 18 August 2025. His firm received instructions on the afternoon of 17 August 2025 which was when the petitioner first received notice of the proceedings. Mr Rowley did not have access to papers for the hearing. He prepared an urgent application for postponement of the IOT hearing. The application was rejected. Mr Rowley was without instructions to be able to represent the petitioner. He remained to observe proceedings.

[55] Having listened to the respondent's counsel refer to the petitioner having a long history of inappropriate conduct in clinical examinations, the witness felt obliged to mention to the IOT that the allegations of anything improper having occurred in clinical consultations had been found not proven in 2023, leading to a finding of no misconduct and no impairment. He stated incorrectly that a warning was issued for not having had a chaperone present, rather than that the warning had been issued for not having informed the patient of the presence of a chaperone. However, his main concern was to emphasise the

petitioner's long history of compliance with interim conditions, of which the witness was aware from his previous representation of the petitioner throughout the period of IOT conditions up until conclusion of the MPTS hearing in December 2023.

[56] The witness sought instructions to apply for an early review of the interim order. This avenue had been referred to by the respondent's counsel in support of its case when resisting the application for postponement on the basis that the petitioner would be able to apply for an early review once his representative was available and instructed and if additional information relevant to the IOT was available. The application for early review was submitted on 29 August 2025 on two principal grounds: (1) new information received from one of the petitioner's employers, confirming that they would be willing to employ him to undertake purely virtual consultations; and (2) in order to allow the petitioner to attend and be represented at the early review hearing, having not been able to attend or be represented at the hearing on 18 August 2025. On 3 September 2025, the application for early review was refused.

Affidavit on behalf of the respondent

[57] An affidavit of Carl Thomas dated 28 October 2025 was lodged. He is employed as an Investigation Officer by the respondent. He first became aware of the complaint about the petitioner when the investigation was assigned to him on 25 July 2025. He reviewed the information received by the respondent which included the initial referral from Dr J on 22 May 2025 and further information from Dr J *via* emails dated 13 and 20 June 2025. He considered the investigative steps that would be required. On 29 July 2025, he submitted a request for a decision from a case examiner regarding whether IOT referral was necessary. On 30 July 2025, the case examiner made their decision to refer the petitioner's case to an

IOT in the interests of the protection of the public and in the public interest. On 31 July 2025 the witness wrote to Dr J to confirm that they were investigating the concerns raised and provided a form which included a section to be completed by each employee raising concerns, which would allow the respondent to access their medical records.

[58] On 31 July 2025 the witness emailed the petitioner via his registered GMC email address. He sent a pathfinder email initially, inviting him to reply to confirm he was happy to receive confidential GMC correspondence to this email address, number 7/29 of process. He received a delivery receipt, number 7/30 of process, but did not receive any reply. He therefore sent a chaser pathfinder email on 4 August 2025, explaining that he would try to telephone him later that day if he received no reply, and again received a delivery receipt, number 7/32 of process. He tried to telephone the petitioner on the same date without success.

[59] On 4 August 2025, the witness emailed the petitioner to explain that concerns had been raised with the respondent; enclosed copies of the information Dr J had provided to the respondent; informed the petitioner of the referral of his case to an IOT, and that the hearing would take place on 18 August 2025. This email also enclosed a copy of the bundle of documents that the respondent proposed would be placed before the IOT. Further correspondence was sent in the post and *via* email in advance of the IOT hearing. A further telephone call was attempted on 12 August 2025.

[60] On 18 August 2025, the IOT determined to impose an interim order of suspension. From 19 August 2025, the respondent's legal team made contact with the 11 potential witnesses and arranged appointments to obtain witness statements. On 12 September 2025, one of the 11 individuals indicated that he did not wish to provide a statement. Four

statements have been lodged with the court. Interviews have been conducted with the six remaining witnesses and draft statements provided to them for their consideration.

[61] While it is difficult to predict with accuracy, the witness would anticipate that the respondent's investigation will have concluded within the next three to 12 months.

Decision

[62] In the present application for termination of an order for interim suspension, the court requires to be satisfied that the order is necessary for the protection of the public and/or in the public interest. It requires to be satisfied that the order is proportionate.

[63] The allegations before the court emanate from 11 complainers, ten of whom are prepared to provide statements. The final statements of four complainers are lodged at numbers 7/8-11 of process. The allegations relate to a period from 2007 to 2013 and importantly occurred in a clinical setting. The allegations are sexual in nature and comprise touching of genitalia, penetrative examinations and voyeurism. Medical records are said neither to note the precise patient contact nor to disclose why it was indicated. The complainers describe the impact of the alleged conduct upon them, referring variously to their unease, confusion, sense of a lack of professionalism, violation and exploitation.

[64] The petitioner denies all allegations.

[65] The petitioner has a fitness to practise history as follows:

i. On 2 February 2006, the petitioner admitted and the Panel found proved a number of charges. These included charges that, when working as a genito-urinary consultant, the petitioner took photographs of patients' genitalia without making a record in their medical notes and/or recording that patients' consent had been obtained. In relation to some patients, he did not explain his

purpose in taking the photographs. The Panel found that the petitioner's conduct was inappropriate. It also found that he failed adequately to respect the dignity and privacy of patients. Although the Panel was of the opinion that the facts proved fell short of the standards expected of a registered medical practitioner, it concluded that such shortfall was not so serious as to be capable of amounting to serious professional misconduct.

ii. On 20 April 2015, the petitioner admitted that between 1 January 2012 and 26 April 2013 he used his personal iPod to take photographs of patients. At least some of the photographs were of vulnerable patients. The petitioner admitted that he did not take adequate steps to ensure that some patients could not be identified. Between 1 January 2012 and 26 April 2013, the petitioner transferred some of the photographs to his home computer. He admitted that he did not adequately tell patients the purpose of taking the photographs and that he failed to obtain adequate consent to take the photographs, store any of the photographs on his personal iPod, and transfer any of the photographs to his personal computer. He admitted that he failed to record that he had obtained consent to take the photographs or that he had taken photographs of the patients. He admitted that when allowing colleagues to access and view the photographs there was no clinical reason to do so and no academic or teaching purpose and that he failed to obtain the consent of the patients to disclose the photographs to colleagues. The Panel also found that at an investigation meeting held on 23 September 2013 the petitioner was misleading, although not dishonest, in respect of the number of photographs taken. The Panel considered that the petitioner's acts and omissions were so serious that

public confidence in the profession would be undermined if a finding of impairment were not made. It concluded that the petitioner's fitness to practise was impaired by reason of his misconduct. The petitioner's employment was made subject to conditions for a period of 36 months.

iii. The petitioner was subject to an interim order of conditions between 6 March 2019 and 13 December 2023. The conditions were in place to protect patients and the public during a GMC investigation. One of the conditions was that a chaperone must be present when conducting face-to-face consultations. On 30 October 2024, it was determined that the petitioner had arranged for a chaperone to observe two occupational health assessments from an adjoining room and had failed to inform the patients of their presence or to obtain their consent for the chaperone to observe. This was determined to be a breach of good medical practice and the petitioner was issued with a warning which remained in place until 30 October 2025.

[66] The petitioner's employer is aware of the allegations. They have no concerns about his fitness to practise. The petitioner could conduct consultations remotely. It is submitted that a chaperone could be present during consultations. Such restricted practice could be monitored.

[67] As is agreed between parties, this court exercises an original (not a review or appellate) jurisdiction. Having regard to the allegations before the court and the petitioner's fitness to practise history, I am satisfied that it is necessary both for the protection of members of the public and is in the public interest for the registration of the petitioner to be suspended. I am satisfied that an interim suspension order is proportionate.

[68] The allegations relate to conduct over a period of 6 years. Ten complainers have provided statements in support of the allegations (albeit six statements remain in draft form). The allegations disclose similarities in the setting and circumstances of contact with the petitioner. They disclose apparently strong similarities in the nature of the petitioner's conduct. That alleged conduct is of instruction by a doctor to a patient to undress; to present as naked for visual inspection; to undertake exercises while naked; and to undergo intimate physical examination of genitalia and penetrative prostate examination. The alleged circumstances are that the individual patient's medical records do not disclose such examinations during the petitioner's consultation and do not disclose any explanation why such examinations were indicated.

[69] Not only does the alleged conduct span a 6 year period, it does not stand in isolation. The petitioner has a fitness to practise history. I have narrated this at [65] and have been careful to extract it faithfully from the written findings of the various hearings. I accept that the petitioner has not been found to have breached any conditional registration. I do not accept the submission on the petitioner's behalf that at no stage has there been a finding of inappropriate conduct. There was such a finding in 2006. I cannot conclude that the petitioner's fitness to practise history is irrelevant to the present allegations.

[70] In these circumstances, the requirements of protection of members of the public and the public interest are engaged. Protection of members of the public is engaged where there is an appreciable risk, in a clinical setting, of voyeurism and inappropriate sexual touching. Such risk arises from the allegations themselves and from the fitness to practise history. The public interest is engaged in the same circumstances. The nature, extent and seriousness of the allegations in a clinical setting, especially when taken with the fitness to practise history, are such that a reasonable and properly informed member of the public would be offended

or surprised to learn that the petitioner was entitled to practise. That is far from a perfunctory justification. Consideration of the protection of members of the public and of the public interest is not lessened because complainers did not formalise complaints for a number of years.

[71] Is then an interim suspension order necessary for the protection of members of the public and/or in the public interest? The petitioner contends that it is not proportionate and so it is not necessary; that suspension is not the least intrusive means; and that the risk could proportionately be managed by the formulation of appropriate conditions (albeit not by this court given the terms of section 41A(10)). I disagree.

[72] The court can take into account the gravity of the allegations, the nature of the evidence, the seriousness of the risk of harm to patients and the prejudice to the practitioner [of an interim order]: *GMC* v *K* at paragraph 6. I am mindful that interim suspension has a direct impact on the petitioner's right to earn a living. However, I require to weigh that against the gravity and number of allegations over a sustained period; the apparent support for the allegations in terms of the complainers' statements and absence of medical notes; and the likely efficacy of conditions rather than suspension. I accept senior counsel for the respondent's submission that the similarity between complaints illustrates a pattern of behaviour which may prove to be a pattern of exploitation and abuse. The allegations are not only of sexual touching but of voyeurism. While the petitioner has not been found to have breached conditions, the finding of breach of good medical practice may be considered indicative of a cavalier attitude to conditions. A chaperone would not be in a position to gainsay the petitioner's clinical judgment nor to intervene. As such, a chaperone would be inadequate to prevent harm. I cannot be satisfied of the efficacy of conditions of remote

consultation and the presence of a chaperone to ameliorate the risk of harm to patients. Accordingly, in the circumstances, suspension is the least intrusive means.

[73] As will be apparent, the submissions focussed to a large extent on the fact that the petitioner's application to postpone the IOT hearing was refused and so the petitioner was neither present nor represented. Allied to that was the submission that the petitioner's fitness to practise history was not correctly presented. In particular, it was incorrectly stated that the petitioner had previously breached conditions. Further, there was no proportionality assessment. Senior counsel for the petitioner accepted that the import of those points relates to the weight which the court should give to the decision of the IOT to make an order for interim suspension. This court's task is not to determine whether the making of the order by the IOT was legally justified but rather to decide for itself whether the statutory test for [making] the order has been met: *GMC* v *K* above at paragraph 6. For the reasons set out above, I am satisfied that the test has been met. My decision is not a narrow one which requires to be bolstered by the decision of the IOT. Mindful of the court's task, I decline to grant the declarator sought.

[74] I am satisfied that an interim suspension order of 15 months is proportionate as a precautionary measure to protect the public from the apprehended risk and in the public interest.

[75] I reserve expenses meantime.