Record of Determinations –
Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 08/02/2016 – 11/02/2016
Medical Practitioner's name: Dr Adam OSBORNE

GMC reference number:	6079770
Primary medical qualification:	MB ChB 2003 University of Manchester

Type of case
New - Misconduct

Outcome on impairment
Impaired

Summary of outcome
Erasure

Immediate order imposed

Tribunal:

Medical Tribunal Member (Chair)	Dr Nigel Callaghan
Lay Tribunal Member:	Dr Kevin Hope
Medical Tribunal Member:	Dr Pavan Rao

Legal Assessor:	Ms Margaret Obi
Tribunal Clerk:	Ms Rosanna Sheerin

Attendance and Representation:

Medical Practitioner:	Not present and represented
Medical Practitioner's Representative:	Mr Julian Woodbridge, Counsel, instructed by Weightmans Solicitors
GMC Representative:	Ms Bernadette Baxter, Counsel

Allegation and Findings of Fact

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

1. Between in or around February 2011 and late 2014 you saw Patient A in your capacity as her private psychiatrist. **Admitted and found proved**

2. You knew or ought reasonably to have known that Patient A was a vulnerable patient because of her history of mental ill health.
Admitted and found proved

3. During your professional relationship with Patient A you engaged in a sexual and an inappropriate emotional relationship with her.
Admitted and found proved

4. Between 14 February 2015 and 24 February 2015 you sent inappropriate e-mails to Patient A when you knew or ought reasonably to have known that Patient A did not want any further contact with you. (Schedule 1) **Admitted and found proved**

5. The e-mails referred to at paragraph 4 above included:

    a. requests to Patient A to withdraw her complaint to the General Medical Council (GMC) against you, **Admitted and found proved**

    b. threats towards Patient A and the consequences for her family if she did not withdraw her complaint to the GMC, **Admitted and found proved**

    c. an accusation that Patient A had seduced you. **Admitted and found proved**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.

Attendance of Press / Public

The hearing was all heard in public.

Determination on Impairment

Mr Woodbridge:

1. Dr Osborne is not present and has voluntarily absented himself from these proceedings. However, Dr Osborne is represented by you and the Tribunal have been assured that you are receiving instructions from him and from your professional client, Dr Osborne's solicitor- Mr John Mitchell who is also present.

2. At the outset of these proceedings, you admitted the Allegation in its entirety on Dr Osborne's behalf.

Background

3. It is not disputed that Dr Osborne was Patient A's treating psychiatrist. He treated her as a private patient from February 2011 to late 2014. Patient A was suffering from a number of mental health conditions including depression, anxiety, substance abuse and self-harming issues. Patient A had weekly appointments with Dr Osborne and he prescribed medication for her. Between 2013 and 2015 Dr Osborne engaged in an inappropriate, emotional and sexual relationship with Patient A.

4. Towards the end of 2014 Patient A became involved in a custody dispute with her ex partner with regard to their two children. Dr A, Consultant Psychiatrist, was asked to write a report on Patient A in relation to this custody dispute. Dr A and Dr Osborne were known to each other as Dr A had previously supervised Dr Osborne for six months. On 24 December 2014 Dr Osborne provided Dr A with an unsolicited summary of Patient A's care to assist Dr A with the preparation of his report. Dr A became aware that Patient A and Dr Osborne were engaged in a long term emotional and sexual relationship as result of an email from Patient A to Dr A dated 8 February 2015. She provided details about the relationship and the impact that the relationship was having on her mental state.

5. Dr Osborne ended his relationship with Patient A on 6 February 2015 during an email exchange. On 9 February 2015 Patient A took an overdose of prescribed medication and was admitted by ambulance via the Emergency Department to the High Dependency Unit ('HDU') at St George's Hospital. Following medical treatment 2015 Patient A was reviewed on 11 February 2015 on the HDU by a member of the Liaison Psychiatry team, Dr B. During this consultation Patient A disclosed that she was in a relationship with her Psychiatrist, Dr Osborne. On conclusion of this initial review, Dr B discussed Patient A's initial psychiatric assessment with her supervising consultant Dr C. Due to concern about the high risk of self harm, Patient A was subsequently admitted to an inpatient psychiatric facility.

6. The relationship between Patient A and Dr Osborne was the subject of a series of complaints to the GMC. Dr A reported the relationship to the GMC in an email dated 11 February 2015. Dr A also informed Dr Osborne of the complaint made. On 13 February 2015 Dr D also reported Dr Osborne to the GMC. Dr D was the consultant psychiatrist at the Merton Home Treatment Team, who took over the Psychiatric care in the community setting of Patient A on the same date. Patient A complained to the GMC in an email dated 14 February 2015 that Dr Osborne was contacting her regularly and that this was causing her stress. Dr C, Consultant Psychiatrist, who supervised Dr B, reported his concerns about the relationship to the GMC in an email dated 18 February 2015.

7. Between 14 February 2015 and 24 February 2015 whilst an inpatient and when discharged back into the community, Patient A informed Dr Osborne by email on a number of occasions that she did not wish to be contacted by him. However, Dr Osborne continued to email her. The content of the emails Dr Osborne sent to Patient A included: reminding Patient A that immediately on commencement of the relationship she had promised not to report him; that it was Patient A who had seduced him; requested she withdraw her complaint against him, asked Patient A to retract her complaint to the GMC and stated " *You still have the power to tell the GMC that you made this up because you were angry at me for discontinuing therapy or that you were confused, paranoid, deluded – whatever excuse you can think of*"; he also made threats towards Patient A and the consequences for her family if she did not withdraw her complaint to the GMC and stated: *"If I get into trouble for this then I will never forgive you for this and I will make sure you pay".*

8. The GMC wrote to Dr Osborne in a letter dated 24 February 2015 informing him of the information which had been provided by Dr A.

9. A letter dated 6 March 2015 was sent to the GMC on Dr Osborne's behalf in relation to his pending Interim Order Panel Hearing which was to take place on 9 March 2015. Within this letter Dr Osborne accepted that he had engaged in an inappropriate relationship with Patient A and apologised for his conduct. He also accepted that he did send a number of inappropriate messages to Patient A in moments of panic and reiterated his apologies and regret for any distress or confusion caused to Patient A.

Submissions

10. Ms Baxter submitted that Dr Osborne's fitness to practise is currently impaired by reason of his misconduct. She drew the Tribunal's attention to relevant paragraphs of Good Medical Practice (GMP) (2013 edition) which included specific reference to paragraphs 1, 2, 53, 54, and 55. She submitted that Dr Osborne's actions had breached these paragraphs of GMP and were serious enough to amount to misconduct. She also drew the Tribunal's attention to the GMC guidance on Maintaining Boundaries.

11. Ms Baxter submitted that by entering into a long term relationship with a vulnerable patient, that Dr Osborne had brought the profession into disrepute, had breached the fundamental tenets of the medical profession and had put Patient A at risk of harm. She further submitted that his actions would be regarded as deplorable by fellow practitioners. She stated that Dr Osborne has not provided evidence that he has reflected on his behaviour or provided evidence of remediation. She submitted that the misconduct is so serious that the public interest demands a finding of impairment to be made.

12. On behalf of Dr Osborne, you drew the Tribunal's attention to the letter dated 6 March 2015 sent by his solicitors to the GMC in which he expressed his apology and regret for his actions in relation to Patient A. In the absence of detailed submissions from you with regards to misconduct and impairment the Tribunal acknowledged that, on behalf of Dr Osborne, you neither conceded nor refuted the GMC's submission that his fitness to practise is currently impaired.

The Tribunal's Decision

13. The Tribunal has considered under Rule 17(2) of the General Medical Council (GMC) (Fitness to Practise) Rules Order of Council 2004 whether, on the basis of the facts found proved, Dr Osborne's fitness to practise is currently impaired by reason of his misconduct. It has taken account of the documentary evidence adduced during the course of these proceedings. It has also taken account of Ms Baxter's submissions on behalf of the GMC and the submissions made by you on Dr Osborne's behalf.

14. The Tribunal has borne in mind that there is no burden of proof at this stage. It is a matter for this Tribunal, exercising its own judgement, to determine whether Dr Osborne's fitness to practise is currently impaired.

15. Throughout its deliberations, the Tribunal has borne in mind its responsibility to protect the public interest. The public interest includes not only the protection of patients but also the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour.

Misconduct

Tribunal's Approach to Misconduct

16. The Tribunal has had regard to the judgment of Mr Justice Cranston in *Cheatle v GMC* [2009] EWHC 645 (Admin), and in particular to paragraph 19 which states:

> *"Whatever the meaning of impairment of fitness to practise, it is clear from the design of section 35C that a panel must engage in a two-step process. First, it must decide whether there has been misconduct, deficient professional performance or whether the other circumstances set out in the section are present. Then it must go on to determine whether, as a result, fitness to practise is impaired..."*

17. The Tribunal reminded itself that misconduct is not statutorily defined. However it accepted that one form of misconduct is:

> *"... conduct of a morally culpable or otherwise disgraceful kind which may, and often will, occur outwith the course of professional practice itself, but*

which brings disgrace upon the doctor and thereby prejudices the reputation of the profession. R. (on the application of Remedy UK LTD) v GMC [2010] EWHC 1245 (Admin) at paragraph 37(1).

18. In *Nandi v GMC* [2004] EWHC (Admin) at paragraph 30 Collins J observed that in other contexts it has been described as "*conduct which would be regarded as deplorable by fellow practitioners*".

19. The Tribunal has considered whether Dr Osborne's actions in relation to Patient A amount to misconduct and also considered Good Medical Practice (GMP) (2013 edition). The Tribunal noted that with reference to duties of a doctor, GMP states that doctors should:

- *Make the care of your patient your first concern…*
- *Never abuse your patients' trust in you or the public's trust in the profession.*

20. The Tribunal has also considered paragraph 53 which states:

"You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them."

21. The Tribunal has noted the GMC's guidance- "Maintaining a professional boundary between you and your patient" (April 2013) and in particular paragraphs 4, 5, and 11 which state as follows:

Paragraph 4

"You must not pursue a sexual or improper emotional relationship with a current patient."

Paragraph 5

"If a patient pursues a sexual or improper emotional relationship with you, you should treat them politely and considerately and try to re-establish a professional boundary. If trust has broken down and you find it necessary to end the professional relationship, you must follow the guidance in ending your professional relationship with a patient."

Paragraph 11

"Some patients may be more vulnerable than others and the more vulnerable someone is, the more likely it is that having a relationship with them would be an abuse of power and your position as a doctor."

22. The Tribunal has noted the admission made by Dr Osborne that he engaged in an inappropriate, emotional and sexual relationship with Patient A, when he was her treating psychiatrist which continued for approximately two years.

23. The Tribunal has noted that this was not a one-off occurrence; the relationship was long term, complex and became established. Patient A was vulnerable and was suffering from a number of mental health conditions which Dr Osborne was treating. Given the duration of the relationship Dr Osborne had ample opportunities, had he chosen to take them, to cease this relationship especially in light of Patient A's vulnerable state and given her health background. Dr Osborne did not cease the relationship with Patient A until February 2015.

24. When Patient A subsequently made a complaint to GMC about the relationship, Dr Osborne attempted to persuade Patient A to withdraw the complaint by sending inappropriate emails to her over a ten day period when he knew she had taken an overdose, and was therefore in a particularly vulnerable and fragile state.

25. Thus, by his actions, Dr Osborne has breached the fundamental tenets as laid down in *Good Medical Practice.* Moreover there has been a serious breach of the doctor/ patient relationship.

26. The Tribunal considers Dr Osborne's actions represent serious departures from GMP and the GMC guidance on Maintaining Boundaries and considers that fellow practitioners would find these actions to be *"deplorable".*

27. In all the circumstances, the Tribunal has determined that Dr Osborne's actions, whether considered separately or together, were so serious as to amount to misconduct.

Impairment by reason of misconduct

28. The issue of impairment is one for the Tribunal to determine exercising its own judgement. The Tribunal has taken into account the public interest which includes the need to protect patients and the public, to maintain public confidence in the profession, and to declare and uphold proper standards of conduct and behaviour. The Tribunal has also considered whether Dr Osborne has demonstrated any insight into his behaviour and the likelihood of any recurrence of his misconduct.

29. The Tribunal noted that by his actions Dr Osborne had:

- presented a risk to Patient A;
- brought the profession into disrepute;
- breached one of the fundamental tenets of the profession.

30. As the Tribunal has already noted, Dr Osborne has clearly departed from a number of fundamental principles set out in Good Medical Practice and the guidance on Maintaining Boundaries. In the letter dated 6 March 2015 sent to the GMC by his

instructed solicitors, Dr Osborne accepted that he engaged in an inappropriate relationship with Patient A and sent a number of inappropriate messages to her following the conclusion of the relationship in an attempt to persuade her to withdraw the complaint. The Tribunal also noted Dr Osborne's apology and the explanation he provided for his actions.

31. The Tribunal regards Dr Osborne's behaviour as profoundly unacceptable and undermines the public's confidence in the medical profession. His inappropriate and sexual relationship with Patient A spanned a period of two years when he was her treating psychiatrist.

32. Dr Osborne had a duty as Patient A's treating psychiatrist, to establish appropriate, professional boundaries between himself and Patient A but chose not to do so. The Tribunal is aware from the email correspondence between Dr Osborne and Patient A that he was aware from the outset that the relationship was inappropriate by his insistence that Patient A agree not to 'report him' yet he allowed the relationship to evolve. The Tribunal accepts that Patient A participated in the formation of this inappropriate relationship but this does not mitigate Dr Osborne's responsibility as her treating psychiatrist. Dr Osborne, by his own admission was aware of Patient A's vulnerabilities and her mental ill health.

33. The Tribunal does not consider that Dr Osborne's actions are easily remediable. This was not a fleeting relationship but sustained over a period of two years. The Tribunal has noted that the only evidence it has been provided with, on behalf of Dr Osborne, in relation to his insight into his conduct is in his solicitor's letter dated 6 March 2015. The Tribunal has not been provided with any further evidence of insight or remediation for Dr Osborne's actions.

34. The Tribunal has determined that by engaging in a sexual and inappropriate emotional relationship with Patient A, Dr Osborne betrayed her trust. She was a vulnerable patient because of her history of mental illness. By his actions, Dr Osborne has brought the reputation of the medical profession into disrepute, breached a fundamental tenet of the medical profession and put Patient A at risk of harm. The Tribunal does not consider that Dr Osborne has shown any significant insight into his actions or the harm caused to Patient A.

35. In the light of these factors, the Tribunal cannot be satisfied that there will be no repetition of his misconduct. Furthermore, and in any event, the Tribunal considers that the gravity of his misconduct is such that public confidence in the profession and the regulatory process would be undermined if a finding of impairment were not made in the particular circumstances of this case. For these reasons the Tribunal has determined that Dr Osborne's fitness to practise is impaired by reason of his misconduct.

Determination on Sanction

Mr Woodbridge:

1. Having determined that Dr Osborne's fitness to practise is impaired by reason of his misconduct, the Tribunal has now considered what action, if any, it should take with regard to his registration, in accordance with Rule 17(2)(n) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules').

Submissions

2. Ms Baxter submitted that Dr Osborne's actions were fundamentally incompatible with continued registration, and that as a result, the only appropriate sanction was one of erasure. She drew the Tribunal's attention to the appropriate paragraphs of Sanctions Guidance, August 2015 (SG).

3. With regard to taking no action, Ms Baxter submitted that this sanction was clearly not appropriate given the seriousness of this case. She stated that there had been no 'exceptional circumstances' in line with paragraph 53 of the SG and therefore to take such action would be wholly inadequate.

4. Ms Baxter submitted that it would be wholly inappropriate for the Tribunal to impose an order of conditions on Dr Osborne's registration as they would not be appropriate, workable or sufficient to remedy the serious misconduct as found proved by the Tribunal, or protect members of the public and uphold confidence in the profession.

5. With regard to suspension, Ms Baxter stated that suspension has a deterrent effect and could be used to send out a signal regarding the behaviour which is unbefitting of a doctor. She submitted that given Dr Osborne's serious breaches of GMP as noted by the Tribunal in its determination on impairment, the impact on the reputation of the profession and the impact on Patient A, it would be inappropriate and insufficient to suspend his registration.

6. Ms Baxter submitted that the sanction of erasure is necessary in the public interest. She drew the Tribunal's attention to paragraphs 88(f) and 108 of the SG, which makes it clear that in cases involving sexual misconduct, erasure may well be the appropriate sanction.

7. She submitted that Dr Osborne had asked Patient A from the outset of the relationship never to report him, and therefore, he knew the gravity of his actions and the serious consequences for him but continued to show a disregard for GMP. She also stated that, based on the content of Dr Osborne's written statement he appears to recognise that erasure is the likely outcome, which demonstrates that he has some insight into the seriousness of his misconduct.

8. On behalf of Dr Osborne you submitted that he has reflected on his behaviour as evidenced in his written statement. You submitted that Dr Osborne's expressions of remorse are genuine. You also submitted that the letter dated 6 March 2015 sent on Dr Osborne's behalf was powerful mitigation as it put the GMC on notice at an early stage that this case was unlikely to be contested and Patient A would not be required to give evidence. You reminded the Tribunal that Dr Osborne admitted the Allegation in its entirety at the outset of these proceedings.

Tribunal's decision

9. The decision as to the appropriate sanction, if any, to impose in this case is a matter for the Tribunal alone, exercising its own judgement. In so doing, it has given consideration to its findings of misconduct and impaired fitness to practise, the submissions made by Ms Baxter on behalf of the GMC, and those you have made on Dr Osborne's behalf. The Tribunal also heard and accepted the advice of the legal assessor. The legal assessor's advice is a matter of record and the Tribunal has not rehearsed it in detail in this determination.

10. Throughout its deliberations the Tribunal has borne in mind that the purpose of sanctions is not to be punitive, but to protect the public interest. The public interest includes protecting the health, safety and wellbeing of the public, maintaining public confidence in the profession, and declaring and upholding proper standards of conduct and behaviour.

11. In reaching its decision, the Tribunal also had regard to the principle of proportionality, and it weighed Dr Osborne's interests with those of the public. It also considered and balanced the mitigating and aggravating factors in this case.

12. The Tribunal found the following to be aggravating factors in this case, which it took into account when reaching a decision as to the appropriate sanction, if any, to impose:

- Dr Osborne's actions were an abuse of trust by taking advantage of a vulnerable patient;
- The previous finding that Dr Osborne's fitness to practise was impaired which resulted in a six month suspension order in 2010;
- The prolonged nature of the inappropriate, emotional and sexual relationship with Patient A.

13. The Tribunal found the following to be mitigating factors in this case:

- The admission of guilt and misconduct in the letter dated 6 March 2015 to GMC;

- Completion of a Maintaining Professional Boundaries Course in October 2015;
- Admission of the Allegation in its entirety at the outset of these proceedings.

14. The Tribunal found in this case, that Dr Osborne had placed scant regard to the publication 'Maintaining a professional boundary between you and your patient' (22 April 2013) which provides guidance set out by the GMC. In particular, paragraphs 1, 3, 4 and 11, (as noted below).

'In Good Medical Practice we say:

''53. you must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them''. (1)

"Trust is the foundation of the doctor- patient partnership. Patients should be able to trust that their doctor will behave professionally towards them during consultations and not see them as a potential sexual partner. (3)

"You must not pursue a sexual or improper emotional relationship with a current patient'' (4)

"Some patients may be more vulnerable than others and the more vulnerable someone is, the more likely it is that having a relationship with them would be an abuse of power and your position as a doctor'. (11)

15. Given its findings, throughout its deliberations the Tribunal also had regard to the following paragraphs of the SG, in particular, those relating to the abuse of a doctor's professional position and sexual misconduct:

101 Doctors must not use their professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.

103 Where a patient is particularly vulnerable, there is an even greater duty on the doctor to safeguard the patient. Some patients are likely to be more vulnerable than others because of certain characteristics or circumstances, such as:

a presence of mental health issues

...

104 Using their professional position to pursue a sexual or improper emotional relationship with a vulnerable patient is an aggravating factor that increases the gravity of the concern and is likely to require more serious action against a doctor.

106 More serious action, such as erasure, is likely to be appropriate where a doctor has abused their professional position and their conduct…, involves a vulnerable patient,…

108 Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies...More serious action, such as erasure, is likely to be appropriate in such cases.

16. In deciding what sanction, if any, to impose the Tribunal considered each of the sanctions available, starting with the least restrictive.

No Action

17. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Osborne's case, the Tribunal first considered whether to conclude the case by taking no action.

18. The Tribunal has noted paragraph 53 of the SG which states that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal has determined that there are no exceptional circumstances in this case, and that it would not be sufficient, proportionate, nor in the public interest to conclude this case by taking no action.

Conditions

19. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Osborne's registration. It bore in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

20. The Tribunal took into account the circumstances and criteria for conditions outlined in the relevant paragraphs of the SG. Having had regard to those paragraphs, the Tribunal determined that it would not be possible to formulate a set of appropriate or workable conditions which could adequately address the seriousness of Dr Osborne's misconduct.

21. The Tribunal noted that there are no clinical concerns with regard to Dr Osborne's practice and the behavioural concerns cannot be addressed appropriately by retraining or supervision. The Tribunal is unable to identify any areas where Dr Osborne's practice could be improved by the imposition of

conditions. Furthermore, the Tribunal notes that Dr Osborne has demonstrated a limited ability to remediate and that as a consequence, a period of conditional registration would not be a sufficient, appropriate or proportionate sanction, nor would it satisfy the public interest.

Suspension

22. The Tribunal next considered whether it would be appropriate and proportionate to suspend Dr Osborne's registration. In doing so, it has taken account of the relevant paragraphs of the SG. The Tribunal acknowledged that a sanction of suspension does have a deterrent effect and can be used to send a signal to the doctor, the profession and the public about what is regarded as behaviour unbefitting a registered doctor.

23. The Tribunal considers that Dr Osborne has breached one of the basic tenets of the medical profession, in that he used his position as a doctor to engage in an emotional and sexual relationship with a vulnerable patient. The Tribunal further considers that there was a degree of a lack of openness in the way Dr Osborne attempted to conspire with, and manipulate, a vulnerable patient in order to minimalise the consequences of the relationship, when discovered. The Tribunal has borne in mind its findings at the impairment stage that, given Dr Osborne's lack of real insight and remediation, there is a risk that Dr Osborne will repeat such behaviour again in the future.

24. The Tribunal considers that Dr Osborne had no insight into the seriousness of the consequences for Patient A as a result of his own actions during his relationship with her; and limited insight into his behaviour when finally knowledge of the relationship entered the public domain. This lack of insight was also evident in the determination on Dr Osborne's conduct in 2010, which should have reinforced the necessity to comply with GMP. For these reasons, the Tribunal determined that a period of suspension would not be an appropriate or proportionate sanction, nor would such a sanction satisfy the public interest.

Erasure

25. Having determined that neither conditions nor a suspension order would adequately reflect the seriousness of the Tribunal's findings on impairment it determined that Dr Osborne's name should be erased from the medical register.

26. The Tribunal took account of the relevant paragraphs of the SG, in particular the following paragraph:

> **88** **Any** of the following factors being present may indicate erasure is appropriate (this list is not exhaustive):

a a particularly serious departure from the principles set out in *Good Medical Practice* where the behaviour is fundamentally incompatible with being a doctor

b a deliberate or reckless disregard for the principles set out in *Good Medical Practice* and/or patient safety

c doing serious harm to others (patients or otherwise), … deliberately … particularly where there is a continuing risk to patients…

d abuse of position/trust…

e …exploiting vulnerable people…

…

i putting their own interests before those of their patients…

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

27. The Tribunal determined that all of the above factors are relevant and applicable to Dr Osborne's conduct and behaviour.

28. The Tribunal has determined that Dr Osborne has shown a blatant disregard for the fundamental tenets of the medical profession. His behaviour towards Patient A has caused her harm and the Tribunal could not be satisfied that there would be no repetition of this misconduct. Shortly after the termination of the relationship Patient A took an overdose followed by two further attempts to take her own life. The termination of the relationship was not the sole cause of Patient A's mental health decline but it appears to have been a contributory factor. Furthermore, it also appears to have had an impact on her ability to trust the medical profession as a whole. Although Dr Osborne's view was that any harm to Patient A was unintentional, the Tribunal took the view that the vulnerability of Patient A was clearly evident from the outset and Dr Osborne was aware or should have been aware that his actions would have had a significant detrimental effect on Patient A's mental state and well being.

29. The Tribunal has determined that Dr Osborne's abuse of his professional position, which included sexual misconduct, with a vulnerable patient he was treating for mental health issues, is fundamentally incompatible with continued registration as a medical practitioner and as such the Tribunal have determined that his name be erased from the medical register. The Tribunal considers that erasure is the only appropriate sanction which will protect patients and maintain public confidence in the profession.

Determination on Immediate Order

Mr Woodbridge:

1. Having determined to erase Dr Osborne's name from the medical register, the Tribunal has now considered, in accordance with Section 38 of the Medical Act 1983, as amended, whether to impose an immediate order of suspension on his registration.

2. In reaching its decision the Tribunal referred to the relevant paragraphs of the Sanctions Guidance, August 2015. It exercised its own judgement and had regard to the principle of proportionality.

3. The Tribunal also took into account the submissions made by Ms Baxter on behalf of the General Medical Council (GMC). The Tribunal noted that you made no submissions on behalf of Dr Osborne with regard to an immediate order.

4. Ms Baxter submitted that the findings in this case were sufficient to warrant an order for immediate suspension. She directed the Tribunal to paragraphs 148 - 152 of the SG.

5. She submitted that, given the gravity of the Tribunal's findings on misconduct, an immediate order of suspension is necessary to protect patients and in the public interest. She invited the Tribunal to revoke the interim order of suspension which is currently in place on Dr Osborne's registration.

6. The Tribunal has determined that, given the serious nature and gravity of its findings in relation to Dr Osborne's misconduct it is necessary for the protection of members of the public and in the public interest to make an order suspending Dr Osborne's registration from today.

7. The interim order of suspension currently in force on Dr Osborne's registration is hereby revoked with immediate effect.

8. The immediate order of suspension will remain in force until the substantive direction takes effect, or until the outcome of any appeal is decided. The substantive sanction of erasure as already announced will take effect 28 days from when written notice is deemed to have been served upon Dr Osborne, unless an appeal is lodged in the interim.

9. That concludes this case.

Confirmed
Date 11 February 2016 Dr Nigel Callaghan, Chair

Schedule 1

Date of email	**Time of email**
14 February 2015	11:34:10
14 February 2015	11:44:19
14 February 2015	12:20:45
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~~14 February 2015~~	~~12:33:37~~ **Deleted following Rule 17(3) application**
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