IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2025] SGHC 10

Originating Claim No 361 of 2023

Between

Tan Tung Wee Eddie

… *Claimant*

And

Singapore Health Services Pte Ltd

… *Defendant*

JUDGMENT

[Employment Law — Unfair dismissal]
[Employment Law — Termination]

TABLE OF CONTENTS

Tan Tung Wee Eddie
v
Singapore Health Services Pte Ltd

[2025] SGHC 10

General Division of the High Court — Originating Claim No 361 of 2023
Chua Lee Ming J
29–31 July, 1–2, 5–6 August, 8 August 2024

21 January 2025 Judgment reserved.

Chua Lee Ming J:

Introduction

1 When the COVID-19 pandemic protocol was in place in 2020, doctors were "locked down", *ie*, they were not allowed to move between hospitals. The claimant, Dr Eddie Tan Tung Wee, and one Dr Chen Min Wei ("Dr Chen"), were then employed by the defendant, Singapore Health Services Pte Ltd, as neurosurgeons in the Department of Neurosurgery at the National Neuroscience Institute ("NNI").

2 The COVID-19 pandemic protocol affected the claimant and Dr Chen differently. During the lockdown, the claimant was stationed at Sengkang General Hospital ("SKH") doing mostly service-related work. On the other hand, Dr Chen (who was a year junior to the claimant) was stationed at Singapore General Hospital ("SGH") where he had more opportunities to be

exposed to complex neurosurgery cases, including skull base surgeries. This was a subspecialty that the claimant was interested in.

3 The claimant began to call out perceived wrongdoings on the part of Dr Chen. To this end, the claimant accessed, without authorisation, the medical records of more than 70 patients who were not under his care.

4 The defendant dismissed the claimant on the ground that he had breached the terms of his employment and that his recalcitrant and targeted unauthorised access of records of patients who were not under his care had irrevocably destroyed the trust and confidence necessary to continue the employment relationship.

5 The claimant commenced these proceedings claiming damages for breach of contract and/or negligence. The claimant alleges that his dismissal was wrongful, and that the defendant was negligent in coming to the determination that he had committed breaches of patient confidentiality. The claimant also alleged that the defendant had breached the duty to take care to not destroy his future employability.

Facts

6 The defendant operates the largest public healthcare cluster in Singapore, providing primary, secondary and tertiary medical care to the public. The healthcare institutions managed by the defendant include NNI, SGH, SKH and Changi General Hospital ("CGH").

7 NNI is one of the national specialty centres within the defendant's cluster and operates out of two main campuses at SGH and Tan Tock Seng Hospital ("TTSH"). It also operates out of four partner hospitals – CGH, SKH,

KK Women's and Children's Hospital and Khoo Teck Puat Hospital. NNI doctors are sited across these campuses and hospitals to provide neurology and neurosurgery services.

8 The claimant was employed by the defendant as an Associate Consultant neurosurgeon on 1 August 2018. On 1 November 2020, he was promoted to Consultant Neurosurgeon. During his employment, the claimant worked at NNI.

The claimant's complaints to the HODs

9 According to the claimant:[1]

(a) he was informed by another neurosurgeon that starting some time in 2020, Dr Chen had started seeing subspecialty patients in the SGH Ear, Nose and Throat Department's Acoustic Neuroma Clinic ("SGH ENT Clinic"); and

(b) he felt the need to confirm this, and he breached patient confidentiality by using the defendant's computerised patient management system to look at the notes of patients in the SGH ENT Clinic.

10 On 9 September 2020, the claimant messaged Associate Professor David Low Chyi Yeu ("A/P Low") who was then the Head of Department ("HOD") of the Department of Neurosurgery at TTSH and the Deputy Medical Director (Clinical) of NNI. The claimant requested to speak to A/P Low and Associate Professor Ang Beng Ti ("A/P Ang"), who was the HOD of the Department of Neurosurgery at SGH, about a "very serious issue" regarding Dr Chen.[2]

---

1 Claimant's AEIC dated 10 November 2023 ("Claimant's AEIC"), at para 11.

2 Agreed Bundle of Documents ("ABD") at pp 129–130.

11 On 14 September 2020, A/P Low and A/P Ang met with the claimant. The claimant complained that Dr Chen had been participating in the SGH ENT Clinic. The claimant complained that this was against the Neurosurgery Department's rule that Associate Consultants should not run or manage patients at subspecialty clinics, involving skull base surgery cases, alone. The claimant described Dr Chen's conduct as "dishonest". The claimant did not limit his complaint to Dr Chen; he also accused A/P Low and A/P Ang of being a "tribe", biased and unfair. A/P Low and A/P Ang told the claimant that they would investigate his complaints and provide him with an update in due course.

12 On 16 September 2020, the claimant sent A/P Low a list of nine individuals from the Neurosurgery Department to speak to regarding Dr Chen.[3] The claimant alleged that:[4]

(a) Dr Chen had been "running [the SGH ENT Clinic] for months" and that Dr Chen had picked up cases "under the protection" of one Dr Ramez Kirollos ("Dr Kirollos"); and

(b) it seemed "fairly likely" that Dr Chen was doing so with the knowledge and approval of A/P Low and A/P Ang "given the amount of favouritism that [Dr Chen] received".

13 Dr Kirollos was a Senior Consultant neurosurgeon at NNI who specialised in skull base surgeries. As stated earlier, this was a subspecialty that the claimant was interested in.

---

3 ABD 133–138.

4 ABD 138.

14 A/P Low told the claimant that A/P Ang and he would investigate the claimant's accusations against Dr Chen.[5] A/P Low also highlighted the claimant's "accusatory tone and opinions towards senior staff". The claimant retorted that "[i]f leadership cannot accept criticism and feedback, thats [*sic*] a dictatorship".[6]

15 On 20 September 2020, A/P Low sent an email to the claimant with a summary of their discussion on 14 September 2020.[7] The claimant replied to confirm his agreement with the summary but added that Dr Chen had attended to and counselled patients at the SGH ENT Clinic despite being aware of A/P Ang's instructions that the SGH ENT Clinic should be run by ENT doctors.[8]

16 A/P Low and A/P Ang investigated the claimant's complaints and found as follows:

(a) Dr Chen had more opportunities to assist in skull base surgeries but this was because he was locked down at SGH due to the COVID-19 protocol, which prevented doctors from crossing over to different campuses. SGH was a major tertiary institution with a more diverse clinical caseload compared to SKH where the claimant was posted. Dr Chen also had the benefit of working with Dr Kirollos, to whom the SGH ENT team referred many of their cases.

(b) The HOD of the SGH ENT department and doctors at the SGH ENT Clinic corroborated Dr Chen's explanation that he had only

---

5 ABD 139.

6 ABD 139.

7 ABD 143–144.

8 ABD 143.

attended the SGH ENT Clinic as an observer to learn the ENT perspective of acoustic neuroma management and not to run the clinic or garner patients for himself.

(c) *None* of the doctors from the Neurosurgery Department (that the claimant requested A/P Low and A/P Ang to follow up with) raised any issues about Dr Chen's conduct that they felt warranted disciplinary action.

(d) The claimant had gone around asking multiple doctors in the Neurosurgery Department if they had any issues with Dr Chen.

17 A/P Ang and A/P Low also realised that there were areas that required improvement to ensure equity and equal training opportunities amongst the Associate Consultants, in particular with respect to subspecialty training. They decided to implement various measures to guide subspecialty training going forward. They also reduced the claimant's calls at SKH and instituted changes to ensure that opportunities for calls in SGH were equal for both the claimant and Dr Chen.

18 On 23 October 2020, A/P Ang and A/P Low met with the claimant and explained their findings. They also told the claimant that they would be working to ensure tighter governance on issues pertaining to subspecialty training and see that there was more equity in training opportunities. The claimant was not satisfied and insisted that disciplinary action should be taken against Dr Chen. The claimant maintained that Dr Chen had gained a significant advantage through dishonest means and not imposing disciplinary action on Dr Chen was a display of favouritism. The claimant refused to accept the explanation that there was no basis to impose any disciplinary action on Dr Chen.

19 On 20 November 2020, the defendant issued an internal circular reminding its employees to keep all corporate and patient data confidential and that access to such information was restricted and for authorised purposes only.[9]

The Review Panel

Background to appointment of Review Panel

20 On 23 November 2020, the claimant sent a photograph of the operating theatre list for the next day to A/P Low.[10] The list showed that a skull base surgery case had been listed under Dr Chen's name. Dr Chen should not have had such a case listed under him as he was not yet a specialist in skull base surgeries. The claimant said that since the HODs were displaying "such rampant favouritism and [had] no credibility as leaders" he would stop attending all departmental events and would not adhere to any departmental guidelines.

21 A/P Low sought clarifications from Dr Chen. Dr Chen explained that the patient was listed under his name because he was on call when the patient was admitted. However, the care of the patient was transferred to Dr Kirollos' name for the surgery. A/P Low sent a message to the claimant explaining the matter.[11] The claimant refused to accept the explanation, describing the situation as "quite incredible".[12]

22 Later that night (23 November 2020), the claimant sent an email titled "Rampant favouritism in the Depart of Neurosurgery, NNI" to the defendant's Group Chief Executive Officer ("GCEO") at the time, Professor Ivy Ng ("Prof

---

9 ABD 146–147.

10 ABD 149.

11 ABD 150–151.

12 ABD 154.

Ng").[13] The email was copied to A/P Low, A/P Ang and the then Medical Director of NNI, Associate Professor Au Wing Lok ("A/P Au"). The claimant repeated the complaints that he had made to A/P Low and A/P Ang. He accused A/P Low and A/P Ang of "rampant favouritism" towards Dr Chen, "[making] decisions in a very, very biased manner" and permitting Dr Chen to continue doing skull base surgeries despite having found the claimant's allegations regarding Dr Chen "were true". The claimant implored Prof Ng to set up a committee of persons not within neurosurgery or NNI to investigate his complaints.

23 On 24 November 2020, A/P Low emailed Prof Ng regarding the claimant's email of 23 November 2020.[14] A/P Low explained to Prof Ng that A/P Ang and he had explained to the claimant their findings following their investigations into the issues raised by the claimant but the claimant continued to believe that their decisions were biased.

24 On 24 November 2020, Prof Ng informed A/P Au and A/P Low that she would appoint a Review Panel and if necessary, move on to a Committee of Inquiry ("COI").[15]

Appointment of Review Panel

25 Prof Ng appointed a Review Panel pursuant to Section 2.4 of the defendant's COI Policy (that was in effect at that time) to conduct an initial investigation into the claimant's allegations and to consider if a COI had to be

---

13 ABD 155–156.

14 ABD 159–160.

15 ABD 159.

convened. The Review Panel comprised the following, all of whom were *not* part of NNI:

(a) Professor Ng Han Seong (Emeritus Consultant with the defendant) as Chairperson;

(b) Professor London Lucien Ooi (Senior Consultant, Hepato-biliary & Transplant Surgery, SGH); and

(c) Ms Phuan Lee Choo (Chief Human Resource Officer, National Heart Centre of Singapore).

Review Panel's report

26 The Review Panel completed its investigations in February 2021. Its findings were as follows:[16]

(a) The claimant's allegation of "rampant favouritism" was unsubstantiated. As Dr Chen was locked down at SGH during the COVID-19 pandemic, he had more opportunities, including working with a mentor, Dr Kirollos. The advantages gained by Dr Chen had not been intentionally granted by A/P Ang and A/P Low but had come about serendipitously and by his own efforts in seeking training opportunities.

(b) The claimant's allegation that Dr Chen had attended the SGH ENT Clinic to corral patients to himself was unsubstantiated. Dr Chen attended the clinic only as an observer to learn the ENT perspective of acoustic neuroma management. The ENT doctors had referred many of

16 ABD 171–172.

their cases to Dr Kirollos and Dr Chen had the opportunities to assist as Dr Kirollos' mentee.

(c) A/P Ang and A/P Low had acted in good faith when they looked into the claimant's feedback and their decisions had not been biased or overly lenient towards Dr Chen.

27 In the light of its findings, the Review Panel did not recommend that a COI be convened. The Review Panel recommended that the claimant be provided with an avenue to seek professional counselling as well as a mentor to help him resolve his personal issues and to support him at the workplace.

28 Prof Ng endorsed the Review Panel's findings and left it to NNI's leadership to implement the Review Panel's findings.

The First COI

Background to appointment of First COI

29 On 27 January 2021, a surgery on a patient ("Patient A") was carried out at the NNI Campus at TTSH. Patient A was one of Dr Kirollos' and Dr Chen's cases. The surgery involved the removal of a meningioma, a type of brain tumour. Dr Kirollos was involved in another surgery, which he had expected to complete before starting on the surgery on Patient A with Dr Chen. Dr Chen commenced surgery on Patient A before Dr Kirollos joined him. According to Dr Kirollos, he was comfortable with Dr Chen handling the surgery up to the dura and the implicit understanding was that Dr Chen could proceed to remove the tumour if the tumour was soft and not adherent to any structures and there was no need to resect any arteries.

30 Dr Kirollos intended to be present with Dr Chen for the tumour resection part of the surgery but the surgery progressed faster than expected. When Dr Kirollos subsequently joined Dr Chen, the latter was already at the tail end of the surgery. Dr Kirollos observed that the vital structures were still intact and that the last piece of tumour that needed to be resected was soft and not attached to anything. He therefore told Dr Chen to proceed to remove the last piece of tumour. Dr Kirollos remained in the operating theatre with Dr Chen until the end of the surgery.

31 Unfortunately, after the surgery, Patient A became a quadriplegic. On 5 February 2021, Patient A's case was discussed at a meeting of the Department of Neurosurgery. The neurosurgeons within the department did not come to a clear-cut conclusion of the probable cause of Patient A's post-operative neurological status.

32 On 9 February 2021, the claimant emailed A/P Au, A/P Ang and A/P Low and referred to "revelations" at the meeting of the Department of Neurosurgery on 5 February 2021.[17] The claimant alleged that there was a "conspiracy within the Department of Neurosurgery …to allow Dr Chen … to practise surgery on some of the most complex cases in the field of Neurosurgery, under the name and protection of … [Dr Kirollos]." The claimant further alleged that Patient A's safety had been "severely compromised".

33 On the same day, A/P Low replied to the claimant and explained as follows:[18]

---

17 ABD 164–165.

18 ABD 164.

(a) A/P Ang and he had raised Patient A's case for discussion at the departmental Mortality & Morbidity ("M&M") meeting and the senior neurosurgeons in attendance had provided their inputs and made their recommendations.

(b) NNI's Chief Risk Officer had also raised Patient A's case for internal review by the Medical Affairs & Quality Management team.

(c) As Deputy Medical Director, he would be discussing the matter with A/P Au to determine if there was any further need to escalate the matter for internal review.

(d) NNI would be setting up a Professional Development Committee to govern training in neurosurgical subspecialties to ensure equity in the training of junior surgeons.

34 On 17 February 2021, Prof Ng was notified of an anonymous whistleblower report, which alleged that Patient A had been scheduled for surgery under Dr Kirollos' name even though Patient A was Dr Chen's patient and Dr Kirollos was involved in another surgery at the same time and in a different operating theatre.

35 On 18 February 2021, the Chairman of the Division of Surgery at TTSH (where Patient A's surgery had been carried out) informed A/P Low that TTSH had received the whistleblower report regarding Patient A. On 19 February 2021, A/P Low discussed Patient A's case with the Chairman of the Medical Board at TTSH and they decided to carry out a joint TTSH-NNI internal review.

36 On 23 February 2021, Prof Ng received another email titled "Patient safety concern in Department of Neurosurgery, NNI" from the claimant, copied

to A/P Ang, A/P Low and A/P Au.[19] The claimant made the following allegations:

(a) In the preceding six to 12 months, Dr Chen had carried out a "conspiracy" to operate on some of the most complex neurosurgery cases under the name and protection of Dr Kirollos, despite Dr Chen having no "special training or ability".

(b) In January 2021, a patient was listed for surgery under Dr Kirollos. On that day, Dr Chen performed most of the surgery while Dr Kirollos was operating on a different patient in another operating theatre.

(c) When Dr Kirollos joined the surgery after completing his surgery on the other patient, Dr Chen had removed the tumour and was in the process of closing the case. The claimant felt that patient safety had been seriously compromised, and post-operatively, the patient had been a quadriplegic and required a degree of ventilatory support.

(d) The leadership at NNI's Department of Neurosurgery appeared to condone Dr Chen's behaviour and displayed favouritism. By acting without regard for what was in the best interests of the people of Singapore, the leadership had been "corrupt".

37 On 23 February 2021, A/P Au informed Prof Ng that the claimant had raised the same issues regarding Patient A to him. A/P Au said that he intended to conduct a joint COI comprising members from both TTSH and the defendant since the matter involved a TTSH patient and the defendant's doctors.

---

[19] ABD 187–190.

Appointment of First COI

38 Prof Ng decided to constitute an independent COI to investigate the issues raised, and to leave it to TTSH or the National Healthcare Group (which manages TTSH) to appoint two members of the COI while she would appoint the Chairman and one other member. The COI (the "First COI") comprised the following:

(a) Prof Ng Han Seong, Emeritus Consultant with the defendant, as Chairperson;

(b) A/P Tan Hiang Khoon, Chairman, Division of Surgery and Surgical Oncology, SGH and National Cancer Centre Singapore;

(c) Prof Low Cheng Hock, Emeritus Consultant with TTSH; and

(d) Adjunct Associate Professor Tan Hui Ling, Assistant Chairman, Medical Board (Clinical Quality and Audit), TTSH.

39 The First COI was tasked to investigate the allegations of professional misconduct against Dr Chen and Dr Kirollos in the claimant's 23 February 2021 email (see [36] above) and raised by the whistleblower report, and to determine if there had been any compromise or non-compliance to the expected standards of patient safety and clinical governance.

40 In March 2021, A/P Low informed Dr Chen and Dr Kirollos that they were not to engage in any operative procedure together until the conclusion of the investigations, without prior approval.[20]

---

[20] A/P Low's Affidavit of Evidence-in-Chief ("AEIC") dated 10 November 2023, at para 44 (1 BAEIC 738).

First COI's report

41 On 7 July 2021, the First COI presented its report.[21] The First COI's conclusions were as follows:[22]

(a) Dr Kirollos and Dr Chen had planned the surgery on Patient A to the best of their ability and although the surgical outcome was not the most ideal, the surgery did not materially compromise the patient's natural neurological outcome.

(b) Nonetheless, Dr Kirollos should be held accountable as he was meant to supervise Dr Chen, but he was not present with Dr Chen except towards the end of the surgery.

(c) The crux of the issue was the system failure due to the prevailing culture within the department and lack of clear boundaries. There was lack of clear guidelines on supervision, such as what was required of mentors and mentees and boundaries on what cases a surgeon could or could not do. Due to these systemic issues, fault could not be entirely attributed to Dr Chen and Dr Kirollos. The First COI noted that NNI had established a Professional Development Committee in February 2021 to set a clear structure and boundaries to guide supervision under the mentor-mentee relationship.

(d) It was difficult to establish if the claimant's claims of favouritism and collusion were valid as it could have been due to his subjective perception. There might be some misalignment towards the claimant's own expectations and what the department felt toward him due to the

21 ABD 321–345.

22 ABD 342–343.

mixed signals received. The claimant might have to align his own personal aspiration with the aspiration of the department.

(e) Taken as a whole, there was no professional misconduct committed by Dr Chen and Dr Kirollos but more had to be done by NNI for greater transparency and to set clear boundaries to better protect staff and patients.

42 The First COI noted that the power of Patient A's limbs had improved and he was still actively on the rehabilitation program, although possibly due to his age, he was still on a tracheostomy and would require ventilator support.[23]

43 The First COI made the following recommendations:[24]

(a) NNI to review its current processes and establish clear and transparent policies and guidelines on listing of concurrent surgeries, subspecialty credentialing and supervision guidelines.

(b) Dr Kirollos to be served a counselling note to remind him that as the primary surgeon, he was responsible for the surgical outcomes of his patient and should always be present with his mentees during critical surgical junctures and throughout high risk surgeries.

(c) The claimant to be assigned a designated mentor to help him navigate some of the issues he was facing with his subspecialty training, to support him in his career advancement.

Prof Ng endorsed the First COI's findings and recommendations.

---

23 ABD 340–341 (at para 6.11).

24 ABD 343–344.

Second COI

Background to the appointment of the Second COI

44 On 25 June 2021, Dr Kirollos and Dr Chen carried out an elective surgery on a patient ("Patient B") who had a large occipital parasagittal meningioma. Patient B's condition subsequently deteriorated due to a haematoma in the tumour resection cavity and a small subdural haematoma. Consequently, he had to undergo emergency surgery, which was largely performed by Dr Chen. Patient B passed away on 27 June 2021.

45 On 28 June 2021, the claimant sent an email titled "Criminal act in Singapore General Hospital" to Prof Ng, copying A/P Ang, A/P Low and A/P Au.[25] The claimant made the following allegations:

(a) Dr Kirollos had been grossly negligent as he was not present in the operating theatre during the emergency surgery to remove the haematoma until nearing the end of the operation.

(b) Dr Chen was reckless and had little regard for human life as he had performed most of the emergency surgery and, in doing so, had operated on the superior sagittal sinus despite having limited experience operating on this area of the brain.

(c) Dr Chen's wife, Dr Cindy Goh ("Dr Cindy"), an associate consultant plastic surgeon, had been present in the operating theatre even though a plastic surgeon was not needed in the operation.

---

[25] ABD 193–195.

46 The claimant opined that the series of events constituted "gross negligence manslaughter". The claimant also claimed that the leadership of the Department of Neurosurgery at NNI had been repeatedly warned about Dr Chen's and Dr Kirollos' "unethical behaviour", but that Dr Chen and Dr Kirollos had been allowed to "continue on their wild spree" culminating in this latest "criminal act".

47 A/P Low informed Prof Ng later that day that he and A/P Ang were aware of Patient B's case, he had discussed the matter with A/P Au, they were establishing the facts, the matter would be discussed at the department's Mortality & Morbidity meetings and a departmental internal review would be conducted.[26]

Appointment of Second COI

48 On 28 June 2021, Prof Ng informed A/P Low that an independent COI would be appointed to investigate the issues raised by the claimant.[27] Later that day, Prof Ng informed the claimant of the decision to appoint an independent COI and that meanwhile, NNI was conducting an urgent internal review.[28]

49 On 8 July 2021, while the COI was in the process of being constituted, Prof Ng was informed of a whistleblower's report which made reference to Patient B's emergency surgery on 26 June 2021.[29] The report alleged that the claimant and two other doctors at NNI had been "target[ing]" and "trying to find fault" with Dr Chen and Dr Kirollos. The report also stated that the

---

26 ABD 199.

27 ABD 198–199.

28 ABD 193.

29 Prof Ng's AEIC dated 16 November 2023 ("Prof Ng's AEIC"), at para 39 (2 BAEIC 120–121).

whistleblower had overheard another doctor saying that the claimant had accessed the medical records of a patient of Dr Chen and Dr Kirollos.

50 The independent COI constituted to investigate the claimant's allegations comprised the following persons (the "Second COI"):

(a) A/P Fong Kok Yong ("A/P Fong"), the defendant's Deputy Group CEO (Medical & Clinical Services), as Chairperson;

(b) Prof Christopher Cheng, Senior Advisor with the defendant;

(c) Prof Terrance Chua, Group Chairman of the defendant's Medical Board, and Medical Director, National Heart Centre Singapore; and

(d) Ms Tan Soh Chin, Senior Director (Special Projects) in the defendant's Deputy Group CEO (Medical & Clinical Services)'s Office.

51 The Second COI was tasked to:

(a) investigate the complaint relating to patient safety concerns involving Dr Chen and Dr Kirollos, including (among other things) the alleged professional misconduct in relation to Patient B;

(b) determine if there had been any breach of patient confidentiality; and

(c) establish if the NNI leadership should be held accountable for any wrongdoing, if found.

52 The Chairperson of the Second COI requested an IT audit to generate a list of doctors who had accessed Patient B's details via the defendant's

electronic system from the time the operation started on 25 June 2021 to the time when NNI's Internal Medical Review ended on 2 July 2021.[30]

53 Pending the completion of the Second COI's investigations,

(a) Dr Chen was not permitted to operate under the supervision of Dr Kirollos (this was an extension of the restriction imposed in March 2021 (see [40] above)).

(b) Dr Chen was required to be supervised by a senior surgeon when operating on surgeries of a certain level or higher, and to discuss the surgeries with the supervising consultant prior to the surgery.

(c) NNT's Neurosurgery Department's internal review would be held expeditiously, during which senior members of the Neurosurgery Department would discuss Patient B's case and consider whether further clinical restrictions were warranted.

Second COI's report

54 On 10 September 2021, the Second COI issued its report.[31] With respect to Patient B's case, the Second COI found as follows:[32]

(a) Patient B was doing well post-surgery but his condition took a sudden turn for the worse and deteriorated very quickly in the early morning of 26 June 2021. The on-call Registrar, Dr Jensen Ang Wei Jie, Senior Resident, Neurosurgery, NNI ("Dr Jensen") discussed Patient

30 A/P Fong's AEIC dated 16 November 2023, at para 14 (1 BAEIC 869).

31 ABD 348–374.

32 Paras 6.1–6.2 of the Second COI report (ABD 360–362).

B's CT image scans with Dr Kirollos. Dr Kirollos advised that Patient B was suffering a postoperative haemorrhage and instructed Dr Jensen to bring Patient B to the operating theatre urgently for evacuation of the blood clot in his brain. Dr Jensen commenced the emergency surgery on his own and removed the haematoma but was unable to close up the patient as the patient's intracranial pressure shot up when he attempted to put the skull bone back.

(b) Dr Jensen was unable to reach Dr Kirollos for advice but managed to reach Dr Chen, who was the second surgeon during the elective surgery. Dr Chen was of the view that it was not feasible to leave the bone out. Dr Chen reached the operating theatre shortly after Dr Damian Lee, Senior Resident, Neurosurgery, NNI ("Dr Damian"). Dr Damian was the third surgeon during the elective surgery and had taken the initiative to assist when he learnt of Patient B's complication.

(c) Dr Kirollos arrived at the hospital towards the end of the surgery when Patient B was being closed up. He was with the surgical team for the post-surgery debrief discussion, reviewed the patient with Dr Chen and spoke with the patient's son.

(d) Dr Chen's wife, Dr Cindy, had come to look for him and had stepped in to assist at Dr Chen's request. Dr Chen needed an extra pair of hands to help with the stitching of Patient B's dura while Dr Damian assisted with managing the patient's blood loss. This was to speed up the operative time and limit the patient's blood loss.

(e) Dr Kirollos was listed as the first surgeon of the emergency surgery despite not having been present during the surgery. Dr Kirollos

had agreed to be included in the operating notes as he felt he should take responsibility for the surgery conducted by the junior doctors.

(f) NNI's Departmental Medical Review Report stated that regardless of the approach to the surgery, given Patient B's condition before Dr Chen's involvement, it was likely that Patient B's final outcome would have remained the same and that Dr Chen's action did not worsen Patient B's outcome. However, NNI's Departmental Medical Review Panel agreed that the presence of Dr Kirollos in the operating theatre would have allowed clarity into how the emergency situation was handled.

55 With respect to breach of patient confidentiality, the Second COI confirmed from the IT audit trail that the claimant accessed the operative notes of Patient B on 27 and 28 June 2021 and on 8 July 2021.[33] The claimant admitted to the Second COI that he had accessed Patient B's operative notes despite not being part of the care team. The claimant justified his actions on the ground that he had a responsibility to police and investigate patient safety issues in the department.

56 With respect to the conflict between Dr Chen and the claimant, the Second COI found that Dr Chen and the claimant were peers and both had ambitions for skull base subspecialisation. However, the distribution of skull base cases was unbalanced and skewed in favour of Dr Chen during the COVID-19 cross-campus movement restrictions in 2020.[34]

---

33 Para 6.4 of the Second COI report (ABD 363).

34 Para 6.13 of the Second COI report (ABD 367).

57 The Second COI concluded as follows (among other things):[35]

(a) There was no negligent or criminal act committed by Dr Chen and Dr Kirollos. Dr Chen's actions would not have made a difference to the surgical outcome of Patient B which was already dismal before Dr Chen's involvement in the surgery.

(b) NNI did not have written policies which required the primary Consultant-in-charge to be present in the operating theatre for post-surgical complications at that time and have since put in place a policy to address this gap. However, it was a lapse of judgment on Dr Kirollos' part for failing to arrive at the operating theatre in a timely manner to personally supervise the surgery.

(c) It was medically and professionally appropriate for Dr Chen to enlist Dr Cindy's help as it was a medical emergency, and the decision was taken to minimize the patient's blood loss.

(d) The claimant had made unauthorised access to the cases of Dr Kirollos and Dr Chen without the express consent of the attending doctor. Doing so was a data breach. There was a toxic culture of fear and mistrust in the Neurosurgery Department due to the claimant's disruptive behaviour and disregard for proper due process by escalating issues before they were fully investigated. There was harassment by the claimant as he could have highlighted his concerns via proper channels.

58 The Second COI's recommendations included the following:[36]

---

35 Paras 7.1–7.6 of the Second COI report (ABD 369–370).

36 Paras 8.1–8.5 of the Second COI report (ABD 371–373).

(a) Proper systems and structures to be put in place with respect to supervision and oversight of junior surgeons, guidelines on the roles and responsibilities of mentors and mentees during supervision, protocol on when the Consultant-in-charge is required to be physically present, a fair and transparent system and process for escalation and investigation of concerns, overall clinical governance framework, and a training and accreditation framework.

(b) Dr Chen to be issued with a Record of Warning for performing the elective surgery of Patient B with Dr Kirollos, thereby failing to comply with the instruction for him to cease operating with Dr Kirollos (see [53(a)] above).

(c) Dr Kirollos to be counselled for failing to comply with the instructions for him to cease operating with Dr Chen and to remind him of his duty to provide close supervision to the junior doctors at all times.

(d) A separate COI to be convened to investigate into the data breach admitted to by the claimant, and to determine speedily whether there was a pattern of unauthorised access to patients' case notes and whether there was malicious intent in his conduct.

Prof Ng endorsed the Second COI's findings and recommendations.

The ET COI

Appointment of ET COI

59 On 6 October 2021, another independent COI was convened to investigate whether the claimant had committed a pattern of unauthorised access

to the case notes and records of patients not directly under his care (the "ET COI"). The ET COI comprised the following:

(a) Dr Goh Min Liong ("Dr Goh"), the defendant's Group Chief Medical Informatics Officer, as chairperson;

(b) Ms Tan Soh Chin, Senior Director (Special Projects) in the defendant's Deputy Group CEO (Medical & Clinical Services)'s Office;

(c) Mr Thng Chiok Meng, the defendant's Head (Data and Digital Governance);

(d) A/P Kevin Lim Boon Leong, Chairman of the Division of Surgery, KK Women's and Children's Hospital; and

(e) Ms Chan Sai Hui, Chief Human Resource Officer, National Dental Centre Singapore.

The claimant's response and statements to the ET COI

60 On 15 November 2021, the claimant was informed of the ET COI and was invited to provide his written response by 18 November 2021.[37] On 18 November 2021, the claimant submitted his written response to the ET COI.[38] The claimant admitted to having:[39]

(a) committed a pattern of unauthorised access to the case notes and records of patients not directly under his care; and

---

37 ABD 381–382.

38 ABD 384–386.

39 ABD 385.

(b) solicited information on patients not directly under his care from Residents, with the intention to find fault with his colleagues.

The claimant sought to justify his actions on the ground that he "was guided by [his] conscience and attempted to expose the unethical practice of [his] colleagues, particularly Dr Chen".

61 On 19 November 2021, the ET COI interviewed the claimant who stated the following (among other things):[40]

(a) He felt that the NNI leadership was "practising favouritism". Hence, after a month of escalating concerns to the NNI leadership, he decided to look into the matter on his own.

(b) There were about 20 cases that had been poorly managed by Dr Chen and Dr Chen had performed multiple surgeries under the cover of Dr Kirollos. He had looked at the operative notes and scans for the SGH cases but not the TTSH cases (which he did not have access to).

(c) He "plead[ed] guilty" to accessing the records of patients who were not under his case. He added that he mainly looked at Dr Chen's cases at the ENT Clinic to establish if Dr Chen had attended sessions at the clinic after having been told not to do so.

(d) He had approached "maybe one or two Residents" in the Neurosurgery Department for information in order to understand the facts surrounding the case relating to Patient B.

---

[40] ABD 460–464.

(e) He knew that he should not be accessing the records of patients not under his care due to patient confidentiality. However, he had to obtain information from patient records in order to make a credible complaint.

(f) He admitted to accessing Dr Chen's ENT Clinic records in September 2020, February 2021 and September 2021 to monitor if Dr Chen was still attending the ENT Clinic sessions.

Investigations by the Secretariat

62 As the claimant had admitted to accessing the electronic medical records of patients at the ENT Clinic, the ET COI instructed the Secretariat to check the claimant's electronic medical records access logs.[41]

63 The Secretariat subsequently reported that the claimant had accessed the records of 42 patients on 65 occasions.[42]

ET COI's report

64 On 21 January 2022, the ET COI delivered its report.[43] The ET COI made the observations and assessments:[44]

(a) As part of his induction, the claimant had submitted his acknowledgement that he had read and would abide by the defendant's

---

41 Dr Goh's AEIC dated 16 November 2023 ("Dr Goh's AEIC"), at para 27 (2 BAEIC 24).

42 ABD 395–396; Dr Goh's AEIC, at para 32(e) (2 BAEIC 27–28).

43 ABD 397–573.

44 ABD 402–408.

IT and Data Access policies. NNI also sent circulars and emails to remind staff on the need to maintain patient data confidentiality.

(b) It was common for Medical Officers to approach Consultants to ask for relevant cases for learning purposes before they proceeded to view the medical records. Doctors within the same care team could also access each other's patients' records. However, doctors should not access the medical records of patients not under their care team unless they have been asked to do so or have obtained permission from the Consultant-in-charge.

(c) There are regular platforms such as the Department's M&M meetings or Subspecialty meetings for doctors to discuss cases pre- or post-operatively and to raise their concerns on patient management issues. There was no expectation or requirement for doctors attending the meeting to access the patients' medical records to read up on the operative notes in advance.

(d) The escalation process in NNI follows that of the defendant's Cluster policy. There were multiple channels for escalation of patient safety issues. Such issues could be surfaced to the Consultants directly, or the Programme Director or the HOD. In addition, a report could be lodged via the Risk Management System or highlighted during the departments' post-operative review meetings or at the M&M meetings. A report could also be made via the whistleblower channel.

(e) Doctors reporting patient safety issues are not required to conduct their own prior investigations. Clause 4.1.5 of the defendant's Reporting of and Investigation into Serious Misconduct involving Fraudulent, Illegal or Improper Activities Policy ("Improper Activities

Policy") stated that employees who came across any suspected fraud and/or misconduct should not attempt to personally conduct an investigation.

(f) The claimant admitted to the ET COI that:

(i) he had taken it upon himself to access records of patients not under his care to investigate into wrongdoings as he felt that the NNI leadership was ineffective and had failed to take action on concerns brought up by him and others;

(ii) he had asked one or two Residents to provide facts surrounding Patient B, and that he had looked at the operative notes and scans of Patient B with the intention to collect evidence so as not to make a baseless claim;

(iii) he looked at the operative notes and scans of Patient B to collect evidence so as not to make a baseless claim against Dr Chen, and

(iv) he accessed the patient records at the SGH ENT Clinic on three occasions in September 2020, February 2021 and September 2021.

(g) On 13 December 2021, the claimant had inquired about the case details of Patient B who was not under his care.

65 The ET COI concluded as follows:[45]

[45] ABD 409–410.

(a) By his own admission, the claimant had committed a pattern of unauthorised access of records of patients who were not his patients, with the intention to police Dr Chen.

(b) There were mitigating factors. The claimant had accessed the records to highlight unsafe practices and to validate his concerns. He was aware that it was wrong but had admitted to having done so. He had escalated his concerns.

(c) Although the claimant had paid closer attention to Dr Chen, this did not equate to malicious intent.

(d) While the claimant had committed the data breach out of concern for patients, it did not exempt him from disciplinary actions.

66 The ET COI recommended that the claimant be issued with a Record of Warning. The ET COI felt that the claimant had committed the breaches in the context of raising what he felt was a severe patient issue, and hence a harsh penalty might not be congruent with the defendant's position to encourage a culture of speaking up.[46]

Decision by SingHealth Disciplinary Council to terminate the claimant's employment

67 Ordinarily, a COI has to submit its report to the "Convening Authority"[47] who shall make the final decision on the recommendations and actions to be taken.[48] However, as the claimant's misconduct involved a data breach,

---

46 ABD 410.

47 ABD 118 (cl 2.10). For definition of "Convening Authority", see ABD 114–115 (cl 2.3).

48 ABD 118 (cl 2.11).

cl 2.14.1(a) of the defendant's COI Policy required the matter to be escalated to the SingHealth Disciplinary Council ("SDC") and disciplinary action could only be taken with the SDC's approval.[49]

68 The SDC comprised Prof Ng (as GCEO) and the defendant's five Deputy GCEOs.[50] On 24 January 2022, the SDC reviewed and discussed the ET COI's report and received inputs from Dr Goh, A/P Au and the Chief Human Resource Officer of NNI.[51] The SDC felt that the claimant's purported justification for his data breaches was not acceptable. However, as a data audit by NNI (which Prof Ng had requested in early January 2022)[52] (the "NNI Data Audit") was then ongoing, Prof Ng asked the SDC secretariat to follow up on the findings from the NNI Data Audit.

69 The SDC met again on 7 March 2022.[53] The SDC was informed that the NNI Data Audit showed the following:[54]

> (a) From January to October 2021, the claimant accessed the patient records of 33 *NNI* patients on 39 occasions despite having no clear involvement in the patients' care. Within this period, the claimant accessed two patients' data after he was specifically counselled by A/P Ang and A/P Low on 24 September 2021 that unauthorised access of patient data was a breach of confidentiality and that he was to stop doing so immediately.

---

49 ABD 119.

50 Prof Ng's AEIC, at para 55.

51 AB 575–624.

52 Prof Ng's AEIC, at para 51.

53 AB 625–637.

54 Prof Ng's AEIC, at para 61.

(b) Between November to December 2021, the claimant accessed the records of three NNI patients when he was not the listed Consultant.

(c) There were 61 instances where the claimant accessed the records of 38 *SGH ENT* patients without authorisation. The claimant was not involved in the care of these 38 patients. In fact, 10 of these patients did *not* have any neurosurgical issue requiring involvement from neurosurgeons There were 11 patients whose data was accessed on 28 September 2021 after the claimant had been told by A/P Au and A/P Low on 24 September 2021 to stop doing this.

(d) In total, the claimant accessed the medical records of 74 patients on 103 occasions without authorisation.

Prof Ng was subsequently informed that the correct number of patients concerned was 72 instead of 74.

70 The SDC unanimously decided to dismiss the claimant with immediate effect due to his recalcitrant data breaches and blatant disregard for patient confidentiality and the rules on data security.[55] The SDC noted that the claimant's breaches were targeted at patients seen by certain doctors and that he had made no effort to work with the defendant's Institute for Patient Safety and Quality even though he had justified his actions based on patient safety reasons.

[55] Prof Ng's AEIC, at para 62.

71 On 14 March 2022, the claimant was served with a letter dismissing him with immediate effect (the "Dismissal Letter").[56] The Dismissal Letter sets out the grounds for dismissal as follows:[57]

> You admitted to the COI that you had accessed confidential patient information including patient-related data in the Electronic Medical Records. This is in breach of Clause 39.2 of the Contract and is a ground for dismissal pursuant to Clause 39.5 of the Contract. As a SingHealth employee, you are also subject to the policies as well as rules and regulations of SingHealth including the Discipline Policy, Annual Leave Policy and Committee of Inquiry Policy. Paragraph 2.5(a) of the Discipline Policy states that committing data breach constitutes gross misconduct which will normally result in dismissal without notice.
>
> As a medical professional, you have the responsibility to uphold the sanctity of patient confidentiality. Your recalcitrant and targeted unauthorized access of records of patients who are not under your care, which the COI has found and is satisfied occurred, has irrevocably destroyed the trust and confidence necessary to continue the employment relationship and rendered it untenable for you to remain in continued employment with SingHealth.
>
> In light of the above and having taken into consideration the findings made by the COI, the data access audit done by the National Neuroscience Institute (NNI) in consultation with SingHealth's Group Chief Medical Informatics Officer and inputs from SingHealth Disciplinary Council (SDC), we hereby dismiss you from employment with SingHealth with effect from 14 March 2022. Your last day of service is 14 March 2022. All employee benefits shall cease after this date.

72 Clauses 39.2 and 39.5 of the terms and conditions of the claimant's contract of employment ("Employment Contract") provide as follows:[58]

> 39.2 The Employee shall not access or attempt to access information of a confidential nature that the Employee is not authorised to access, including patient-related data in the

---

56 ABD 39–40.

57 ABD 39.

58 ABD 35.

> Electronic Medical Records / Electronic Dental Records ("EMR / EDR").
>
> …
>
> 39.5 Breach of any of the above confidentiality obligations will be grounds for dismissal or other disciplinary action, in accordance with the SingHealth Discipline Policy, without prejudice to SingHealth's other legal rights of recourse against the Employee, e.g. claim against the Employee for damages and loss suffered.

73 Paragraph 2.5(a) of the defendant's Discipline Policy states:[59]

> 2.5 **Causes for Dismissal**
>
> Any act or omission that irrevocably destroys the trust and confidence necessary to continue the employment relationship will constitute a gross misconduct. If on completion of a due inquiry, SingHealth is satisfied that gross misconduct has occurred, the result will normally be a dismissal without notice. Gross misconduct which may result in dismissal includes and is not limited to the following:
>
> (a) Committing a data breach, which generally refers to the unauthorised access and retrieval of information that may include corporate and personal data

74 In accordance with the defendant's COI Policy, the following were forfeited:

(a) discretionary payouts including the claimant's annual wage supplement for 2021, 25% of his performance bonus for 2021 and a one-off COVID-19 Healthcare Award (which had been withheld during the course of the ET COI proceedings); and

(b) the claimant's unconsumed annual leave.

---

59 ABD 80.

Events subsequent to the claimant's dismissal

75 On 1 April 2022, the defendant lodged a police report in respect of the data breaches committed by the claimant, for "record purposes".[60]

76 On the same day, the defendant informed the Singapore Medical Council ("SMC") that the claimant had been dismissed following the finding of the ET COI that the claimant had committed a pattern of unauthorised access to records of patients who were not under his care.[61] The SMC informed the defendant that the defendant had to submit a complaint in order for the SMC to investigate the claimant's misconduct in accordance with the Medical Registration Act. However, the defendant decided not to file a formal complaint, in order to give the claimant the chance to learn from his mistakes and move on in his career.[62] On 29 April 2022, the defendant informed the SMC of its decision.[63]

77 On 30 June 2022, as advised by the SMC, the defendant reported the claimant's data breaches to the Ministry of Health.[64]

78 On 30 November 2022, the defendant received a letter from the claimant's then lawyers, M/s WMH Law Corporation ("WMH Law").[65] The letter asserted that the defendant had wrongfully terminated the claimant and demanded the claimant's reinstatement and compensation for loss and damage.

---

60 ABD 749–750.

61 ABD 638.

62 Prof Ng's AEIC, at para 67.

63 ABD 639.

64 ABD 751–753.

65 ABD 241–244.

79 In light of the claimant's lack of remorse shown in the letter from WMH Law, the defendant decided to lodge a formal complaint against the claimant with the SMC and did so on 28 June 2023.[66] On 31 August 2023, the claimant submitted his written explanation to the SMC.[67]

80 On 3 August 2023, the Singapore Police Force informed the defendant that it had completed its investigations and decided to administer a warning to the claimant in lieu of prosecution for the offence of unauthorised access to computer material under the Computer Misuse Act 1993 (2020 Rev Ed).[68] The claimant told the police officer who gave him the letter containing the stern warning that he rejected the same.[69]

The claimant had accessed medical records of patients not under his care

81 It is undisputed that the claimant had accessed medical records of patients who were not under his care. The claimant admits to this in his pleadings and in his affidavit of evidence-in-chief.[70]

82 During his oral testimony, the claimant admitted that he had accessed patients' records without authorisation although he claimed that it was justified.[71] The claimant admitted that he knew he was not supposed to access information of patients who were not under his care.[72] The claimant estimated

---

66 ABD 664–677.

67 ABD 683–714.

68 Prof Ng's AEIC, at para 71.

69 Claimant's AEIC, at para 47.

70 SOC, at paras 4.1; Claimant's AEIC, at paras 11–13, 22.

71 NE, 29 July 2024, at 10:22–12:10, 17:24–18:1, 96:9–13.

72 NE, 29 July 2024, at 19:20–24.

that he had accessed the medical records of some 70 to 80 patients who were not under his care.[73]

83 In his written response to the ET COI, he admitted to having committed a pattern of unauthorised access to the case notes and records of patients not directly under his care in his written response to the ET COI.[74]

84 During his interview with the ET COI, he admitted to accessing the medical records of patients not under his care and acknowledged that he was aware that he should not be accessing such records due to patient confidentiality.[75]

85 The IT audit requested by A/P Fong, the chairperson of the Second COI, confirmed that the claimant accessed the operative notes of Patient B on 27 and 28 June 2021 and on 8 July 2021 (see [55] above).

86 The Secretariat to the ET COI confirmed that the claimant's electronic medical records access logs showed that the claimant had accessed the records of 42 patients on 65 occasions (see [62]–[63] above).

87 The NNI Data Audit (requested by Prof Ng) confirmed that the claimant had accessed the records of 72 patients on 103 occasions without authorisation (see [69(d)] above).

The claimant's case

88 The claimant's case is as follows:

---

73 NE, 30 July 2024, at 73:5–21.

74 ABD 465–466.

75 ABD 461 (at para 1.6) and ABD 462–463 (at para 1.12).

(a) His dismissal was wrongful for the following reasons:

(i) He was justified in accessing information of patients not under his care.[76]

(ii) The defendant failed to refer his case to the Singapore Medical Council to determine whether he was guilty of professional misconduct.[77]

(iii) The defendant failed to conduct the appropriate disciplinary proceedings against him.[78]

(iv) The defendant failed to apply the appropriate standard of proof, or to consider the relevant factors in determining whether the claimant was guilty of professional misconduct.[79]

(v) The defendant failed to provide the claimant with the opportunity to be represented by counsel.[80]

(vi) The defendant failed to provide the claimant an opportunity to produce evidence, cross-examine witnesses, obtain documents from the defendant, present defences and justifications, and mitigate before making its decision to dismiss him.[81]

---

76 SOC, at paras 5, 19–22.

77 SOC, at para 16.1.

78 SOC, at paras 16.2 and 16.10–16.11.

79 SOC, at paras 16.3 and 16.10–16.11.

80 SOC, at para 16.4.

81 SOC, at paras 16.5–16.9.

(vii) The defendant failed to provide the claimant with the opportunity to appeal to the General Division of the High Court (the "High Court").[82]

(viii) The defendant failed to provide the claimant with the results and conclusions of the investigation and proceedings into his alleged professional misconduct.[83]

(b) The defendant was negligent in determining that the claimant had breached patient confidentiality and in summarily dismissing the claimant.[84]

89 The claimant seeks the following damages:

(a) payment of his forfeited bonuses and unconsumed annual leave;

(b) payment of his salary for the contractual termination notice period;

(c) loss of future earnings, or alternatively, loss of future earnings potential;

(d) loss of amenity, *ie*, loss of the enjoyment of his career; and

(e) aggravated damages and punitive damages.

The claimant alleges that he suffered loss of future earnings and loss of amenity due to his inability to find employment as a neurosurgeon following his

---

82 SOC, at para 16.12.

83 SOC, at para 16.13.

84 SOC, at para 16A.

summary dismissal. In his closing submissions, the claimant quantified his loss of future earnings at $4,442,570.53.[85]

Whether the claimant's dismissal was wrongful

Whether the claimant was justified in accessing records of patients not under his care

90 This appears to be the main plank of the claimant's case. The claimant's case is that he was justified in accessing the records of patients not under his care because he had done so for the purposes of raising issues to the appropriate authorities in consideration of the patients' best interests. The claimant argues that his actions did not amount to a breach of patient confidentiality because:

(a) the patients had given their consents;

(b) his actions were justified by the iniquity exception;

(c) his actions were justified by Part C7(5) of the SMC Ethical Code and Ethical Guidelines (2016 Edition) ("SMC ECEG")[86] as they were in the patients' best interests;

(d) under Part D4(2) of the SMC ECEG,[87] he had an obligation to report his colleagues to the relevant authorities if he had a reasonable belief that his colleagues had such serious issues that patients had been harmed or were at imminent risk of harm; and

(e) he should be afforded the protection given to whistleblowers.

---

85 Claimant's Skeletal Submissions dated 7 August 2024 ("Claimant's Skeletal Submissions"), at Annex A.

86 ABD 793.

87 ABD 803.

91 I disagree with the claimant that he was justified in accessing the records of patients who were not under his care.

Patients' consents

92 The claimant relies on express consent and assumed consent.[88]

93 With respect to express consent, in his oral testimony, the claimant said that he was justified in his actions because the patients had given their consents. The claimant asserted that patients who come to a teaching hospital have given their consents to their information being accessed for teaching purposes and therefore, he could access their information if he thought that he had something to learn.[89]

94 I reject the claimant's reliance on express consent as justification for his actions. This is not his pleaded case. In any event, the evidence does not support his assertion that the patients had consented to him accessing their medical records even though they were not under his care.

95 During cross-examination, the claimant asserted that patients in a teaching hospital would have signed consents to allow the hospital to use their information to provide teaching to its staff.[90] The defendant then referred the claimant to an ED Admission Authorisation Form used by SGH.[91] The patient's general consent in the form included the following statement:

---

88 In para 3.1 of the Claimant's Skeletal Submissions, the claimant stated that he was not relying on assumed consent as a defence. However, in his oral closing submissions, the claimant stated that he was relying on consent as justification for his actions (NE, 8 August 2024, at 3:8–11 and 4:2–19).

89 NE, 29 July 2024, at 87:3–9.

90 NE, 29 July 2024, at 86:22–87:13.

91 Exhibit D1.

> I understand that the hospital is a teaching institution and that junior doctors, fellows, medical / nursing / allied health students may participate in my care. I understand that I will be looked after by a healthcare team who will have access to my medical information including information available through the Electronic Medical Records System.

96 Clearly, this form does not support the claimant's assertion. The consent to access the patient's medical information is expressly limited to doctors who are part of the team looking after the patient.

97 The claimant then claimed that the consents could be found in two other consent forms used by SGH – an inpatient admission form and admission for procedure form.[92] The defendant produced SGH's General Consent Form and Consent for Operation/Procedure by Patient.[93] The General Consent Form contained a statement similar to the one referred to in [95] above. Clearly, this form does not support the claimant's assertion either.

98 The Consent for Operation/Procedure by Patient contained the following statement:

> I also consent to:
>
> …
>
> - The hospital (the SingHealth Institution where the Procedure is performed) collecting, using and/or disclosing my de-identified photographs, video and audio recordings ("Recordings") for the purposes of education and quality assurance.

Clearly, this form also does not support the claimant's assertion. It authorises the hospital to use/disclose de-identified photographs and recordings. It does

---

92 NE, 29 July 2024, at 105:25–106:9 and 108:1–11.

93 Exhibits D2 and D3, respectively.

not authorise any doctor (who is not taking care of the patient) to access the patient's medical records.

99 As for assumed consent, the claimant's case is that if the patients were informed of the aims of the claimant's actions and they had the opportunity to consent, they would have given their consents.[94] As the claimant acknowledged in his written explanation to the SMC dated 31 August 2023[95] in response to the formal complaint made by the defendant (see [79] above), the concept of assumed consent is often used in emergency situations in which the patient is unable to given consent.[96] In other words, in such situations, the doctor assumes that the patient wants to be treated even though the patient is unable to explicitly give his consent.

100 In my view, the concept of assumed consent has no application to the present case. The present case is not one where it was impractical to obtain the patients' consents. The claimant could have tried to obtain consents from the patients; he simply chose not to do so. The claimant has not produced any authority that applies the concept of assumed consent to facts similar to those in the present case.

101 In my view, the claimant's reliance on consent is nothing more than an afterthought. The claimant did not raise consent as justification for his actions to either the Second COI or the ET COI.

---

94 SOC, at para 22.3; NE, 29 July 2024, at 178:2–8.

95 ABD 683–714.

96 ABD 702 (at para 37).

Iniquity exception

102 The iniquity exception is an exception to the protection afforded by legal professional privilege. It states that no legal professional privilege can be claimed in respect of communications which are part of a crime or a fraud, or which seek or give legal advice for the purpose of carrying it out, regardless of whether the lawyer was aware of that purpose: Colin Liew, *Legal Professional Privilege* (Academy Publishing, 2020) at para 7-33.

103 In *Al Sadeq v Dechert LLP* [2024] 3 WLR 403 ("*Al Sadeq*"), the English Court of Appeal explained the exception as follows at [56]–[58]:

> 56 It is not confined to cases in which the legal adviser is party to, or aware of, the iniquity. The relevant iniquitous purpose is that of the client, or if the client is being used as a tool for the iniquity by a third party, that of the third party: [*R v*] *Cox and Railton* [(1884) 14 QBD 153] and *R v Central Criminal Court, Ex p Francis & Francis* [1989] AC 346.
>
> 57 The principled juridical basis for the exception is that it is a necessary ingredient of legal professional privilege that the communication should be confidential; and that the iniquity exception applies where and because the iniquity deprives the communication of the necessary quality of confidence: see the authorities considered in *JSC BTA Bank v Ablyazov* [2014] 2 CLC 263, paras 76—92. It is therefore an exception in the sense of something which prevents the privilege arising in the first place, not an exception in the sense of a disapplication of existing privilege.
>
> 58 Communications between a lawyer and client, or with third parties, are confidential if they take place in the usual course of the professional engagement of such a lawyer, notwithstanding that the engagement may concern an iniquity. This is why the iniquity exception does not apply to what Glidewell LJ referred to as the "ordinary run of cases" in *R v Snaresbrook Crown Court, Ex p Director of Public Prosecutions* [1988] QB 532, 537—538. Such privilege is not prevented from attaching merely because the solicitor is engaged to conduct litigation by putting forward an account of events which the client knows to be untrue, and which therefore involves a deliberate strategy to mislead the other party and the court, and to commit perjury, as is clear from that case and *Ex p Francis & Francis*. Accordingly the touchstone in distinguishing such

> cases from those where the exception applies is whether the iniquity puts the conduct outside the normal scope of such professional engagement or is an abuse of the relationship which falls within the ordinary course of such engagement. This was the conclusion reached from the analysis of the authorities at para 93 in *Ablyazov*, cited with approval and applied by this court in *Candey Ltd v Bosheh* [2022] 4 WLR 84, paras 70—71 and 82—83. This was common ground on the current appeal.

104 In the present case, the claimant seeks to extend the exception to excuse what would otherwise be a breach of patient confidentiality. He argues that common law recognises that when there is a conflict between raising matters of public interest and confidentiality of the individual, the interests of the many trumps the rights of the few, subject to the requirement that the information shows wrongdoing.[97] However, he has offered no authority in support of the broad proposition that he has put forth.

105 I reject the claimant's argument. The substance of the claimant's argument is that a person can access information in breach of confidentiality and not be liable so long as his actions produce information that shows wrongdoing, *not by the person to whom the confidentiality belongs*, but by a third party. In my view, such a broad proposition cannot be supported in principle. The claimant has also not produced any authority supporting such a broad proposition.

106 The iniquity exception applies in a context that is far different from the present case. Legal professional privilege belongs to the client. Under the iniquity exception, the client cannot claim the protection of privilege because *his* iniquity (or the iniquity of the person he represents) deprives the communication of the necessary quality of confidence (see *Al Sadeq* at [56]–[57]).

---

97 Claimant's Skeletal Submissions, at para 3.2.

107 In contrast, in the present case, the confidentiality of the medical records belongs to the patients. Even if the iniquity exception could apply outside the realm of legal professional privilege, the present case does not involve any iniquity on the part of the patients that can be said to deprive the patients of their claim to the protection of confidentiality of their records.

Part C7(5) of SMC ECEG

108 Part C7(5) states as follows:[98]

> You must have sound justifications if you decide to disclose patient's information without consent. Disclosure without consent is generally defensible when it is mandated by law, it is necessary in order to protect patients or others from harm, when the involvement of parents and legal guardians is beneficial to minors or where such disclosure is in patients' best interests.

109 The claimant pleads that Part C7(5) of the SMC ECEG provides that a doctor can justify breach of confidentiality where such breach is in the patient's best interests.[99] The claimant's argument appears to be that a doctor is entitled to access the records of patients not under his care if he believes it is in the patient's best interests.

110 I reject the claimant's argument. Part C7(5) of the SMC ECEG deals with a doctor's disclosure of *his patients'* medical information. This is clear from Part C7(5) itself which starts with the following:[100]

> Patients have a right to expect that any information *provided to you in the context of clinical care* be kept confidential, unless there are very good reason for sharing the information. …
>
> [emphasis added]

---

98 ABD 793.

99 SOC, at para 22.8.

100 ABD 793.

Part C7(5) is given as an example of what upholding medical confidentiality means.

111 It does *not* follow from Part C7(5) that a doctor is also entitled to *access* the records of *patients not under his care* on the ground that he believes that doing so would be in the best interests of such patients. The treating doctor is in the best position to determine what is in the best interests of a patient under his care. Even if a doctor (who is not involved in treating the patient) has reason to believe that the treating doctor's actions are harmful to the patient, he has no right to take it upon himself to access the patient's records without authorisation. He should raise his concerns to the treating doctor or the relevant authorities who can then investigate the matter.

112 As the defendant points out, the claimant conceded during his oral testimony that there is nothing in the SMC ECEG which says that as part of his professional duty as a doctor, he can access information of patients not under his care.[101] On the contrary, Part C7(3) of the SMC ECEG expressly states that a doctor "must not access confidential patient information if [he is] not involved in any aspect of the patient's care".[102] In addition, the claimant's Employment Contract includes an express prohibition against accessing or attempting to access confidential information including patient-related data without authorisation (see [72] above). These clear prohibitions contradict the claimant's argument.

---

101 NE, 29 July 2024, at 62:9–13.

102 ABD 793.

Part D4(2) of SMC ECEG

113 Part D4(2) of the SMC ECEG states:[103]

> If you have a reasonable belief that your colleagues have issues of performance, medical fitness to practise or professional misconduct such that patients have been harmed or are at imminent risk of harm, you must report them to the relevant authorities.

114 The claimant submits that his access to patients' confidential information was justified because it was done in the discharge of his professional duty as a doctor under Part D4(2) of the SMC ECEG.[104]

115 I disagree with the claimant. Part D4(2) requires the claimant to report his colleagues if he has a reasonable belief that one or more of the grounds stated exist. If he does not have a reasonable belief that one or more of the grounds exist, then there is nothing for him to report. If he has a reasonable belief, then he is required to make a report and to leave it to the relevant authority to investigate the matter. Part D4(2) does not give him the right to access records of patients not under his care in order to see whether there was anything for him to report, or to look for evidence to further substantiate his belief. The investigation ought to be left to the relevant authority.

116 Indeed, the defendant's Improper Activities Policy explicitly stipulates that "[a]ll employees who come across any suspected fraud and / or misconduct should not attempt to personally conduct an investigation".[105]

---

103 ABD 803.

104 Claimant's Skeletal Submissions, at paras 3.9–3.10.

105 ABD 63 (version 5, at para 4.1.4); ABD 72 (version 6, at para 4.1.5).

Whistleblower protection

117 The claimant pleads that he should be afforded protection against detriment or retaliation for having raised the issues that he did.[106] In my view, the claimant's reliance on whistleblower protection is misplaced. The question of whistleblower protection does not arise in this case.

118 The claimant was not dismissed for whistleblowing. The claimant was dismissed because he had accessed the records of patients who were not under his care, without authorisation. As he had no justification for doing so, his actions amounted to a breach of confidentiality. As provided under the terms of his Employment Contract (including the defendant's Discipline Policy), the claimant's breach of patient confidentiality was ground for dismissal (see [72]–[73] above).

Whether the defendant should have referred the case to the SMC

119 The claimant pleads that the defendant violated due process by failing to refer the question as to whether he was guilty of professional misconduct to the SMC for the SMC's determination.[107] The claimant appears to rely on the fact that under the Medical Registration Act 1997 (2020 Rev Ed) ("MRA"), the SMC is empowered to determine and regulate the conduct and ethics of doctors.[108]

120 The claimant's reliance on the MRA is misconceived. The defendant dismissed the claimant because he had accessed confidential patient information in breach of cl 39.2 of his Employment Contract and this was a ground for

---

106 SOC, at para 20.

107 SOC, at para 16.1.

108 SOC, at para 15.1; s 5(*f*) of the MRA.

dismissal under cl 39.5 of his Employment Contract (see [71] above). This had nothing to do with the SMC or its powers to discipline doctors under the MRA.

Whether the defendant failed to conduct disciplinary proceedings

121 The claimant pleads that the defendant violated due process by failing to conduct appropriate disciplinary proceedings against him.[109] In my view, the evidence proves otherwise.

122 Under para 2.3(e) of the Discipline Policy, data breach is a ground for disciplinary action.[110] Under para 2.5(a), committing a data breach is a cause for dismissal.[111] Under para 2.4.3(d), an employee may be dismissed only following due inquiry by a formal COI that will ascertain the grounds for dismissal and accord the employee the opportunity to explain himself.[112]

123 Para 2.4.3(d) of the Discipline Policy was complied with. The ET COI was convened to look into the data breach admitted to by the claimant (to the Second COI), and to determine whether there was a pattern of unauthorised access to patients' case notes and if there was malicious intent in the claimant's conduct.[113] The claimant submitted his written response to the ET COI and attended an interview with the ET COI (see [60]–[61] above). In his written response, the claimant admitted to having committed a pattern of unauthorised access of records of patients who were not his patients, with the intention to

---

109 SOC, at paras 10A and 16.2.

110 ABD 76–77.

111 ABD 80.

112 ABD 80.

113 ABD 397.

police Dr Chen. As the defendant has pointed out, the claimant conceded that he was given ample opportunity to explain his reasons for his actions.[114]

124 Under cl 2.14.1(a) of the COI Policy, cases involving data breach have to be escalated to the SDC and disciplinary action may only be taken with the SDC's approval.[115] In compliance with cl 2.14.1(a), the claimant's case was escalated to the SDC, which subsequently decided to dismiss him.

125 The claimant complains that in breach of cl 2.2 of the defendant's COI Policy, the SDC's deliberations did not involve him, he had no opportunity to be heard and that he should have been given the opportunity to respond to the results of the NNI Data Audit (see [68]–[69] above)).[116] I disagree.

126 Clause 2.2 of the COI Policy states:[117]

> Employees shall be granted due process and opportunity to explain himself in disciplinary proceedings. Accordingly, a Committee of Inquiry (COI) shall be convened in the following situations, in line with SingHealth's Discipline Policy (22100-SHSP-011) but need not be limited to the following situations:
>
> …

127 I agree with the defendant that the SDC was not required to hear the claimant before coming to its decision. In contracts of employment, *absent a term in the contract to the contrary*, there is no basis for finding that an employer is obliged to accord to an employee the right to any particular process before undertaking any action, including even contractually wrongful action: *Leiman,*

---

114 NE, 29 July 2024, at 89:8–14; NE, 8 August 2024, at 121:3–4.

115 ABD 119.

116 See SOC, at paras 18.3, 18.6 and 18.9.

117 ABD 114.

Ricardo and another v Noble Resources Ltd and another [2020] 2 SLR 386 ("*Leiman*") at [126].

128 There is nothing in the terms applicable to the claimant's Employment Contract (including the COI Policy and Discipline Policy) that required the SDC to give the claimant an opportunity to explain himself (whether in respect of the findings of the ET COI or the NNI Data Audit) before the SDC made its decision. Clause 2.2 of the COI Policy applies only to a COI. The claimant submits that cl 2.2 of the COI Policy must apply to the SDC in the absence of express policies outlining what the SDC ought to have done.[118] I reject the claimant's submission. It cannot stand in the light of the Court of Appeal's decision in *Leiman*.

129 As for the NNI Data Audit, it is true that the claimant was not asked to respond to the results of the NNI Data Audit. However, in my view, this does not assist the claimant. Even without the results of the NNI Data Audit, there is more than sufficient evidence (including the claimant's own admissions) to support the defendant's conclusion that he had accessed the records of patients who were not under his care and thus breached the terms of this Employment Contract. In any event, the claimant admitted during his oral testimony that he is not challenging the results of the NNI Data Audit.[119]

130 Next, in his closing submissions, the claimant submits that the decision to dismiss him was made in bad faith, in part because an issue relating to his polymerase chain reaction ("PCR") test had "possibly [been] considered, and in

---

118 Claimant's Skeletal Submissions, at para 23.1.

119 NE, 1 August 2024, at 134:1–3.

secret".[120] The claimant's submission is based on para 1.5 of the minutes of the SDC's meeting on 24 January 2022, which states as follows:

> 1.5 On a separate note, the SDC noted that Dr Tan received his first does of COVID vaccination at TTSH on 30 December 2021 and subsequently was found to have contracted COVID through a positive polymerase chain reaction ("PCR") test. The SDC requested NNI to find out where Dr Tan took the PCR test in view of the recent arrest of a doctor who had conspired to falsify vaccination records.

131 This submission is not part of the claimant's pleaded case. It is true that the defendant had initially disclosed only extracts of the minutes of the SDC's meeting on 24 January 2022, which did not include para 1.5.[121] I accept the defendant's explanation that para 1.5 was redacted because it was not relevant to the present proceedings.[122] In any event, the defendant had not redacted para 1.5 set out in a slide that was presented to the SDC during its second meeting on 7 March 2022.[123] A copy of this slide was included in the documents given to the claimant in December 2023.[124] For completeness, I would add that after the claimant raised this issue during the course of the trial, the defendant produced the minutes of the SDC's meeting on 24 January 2022 in full, together with the complete deck of PowerPoint slides that were presented at the meeting.[125]

---

120 Claimant's Skeletal Submissions, at para 30.4.

121 ABD 575–580.

122 AEIC of Christabell Wong Ai Lin dated 5 August 2024 ("Christabell's AEIC"), at para 10.

123 ABD 629.

124 Christabell's AEIC, at p 24.

125 Christabell's AEIC, at pp 36–87.

132 In my view, it is clear that para 1.5 of the minutes of the SDC's meeting on 24 January 2022 had nothing to do with the issue relating to the claimant's unauthorised access to patients' confidential records.

133 In her AEIC, the defendant's Director of Policy and Planning under Strategic Human Resource explained the background to para 1.5 as follows:[126]

> (a) In late December 2021, the Ministry of Health ("MOH") announced that Workforce Vaccination Measures ("WVM") would be implemented from 1 January 2022. Under the WVM, only workers who were fully vaccinated, certified to be medically ineligible for all COVID-19 vaccines under the National Vaccination Programme ("NVP"), or had recovered from COVID-19 within the past 180 days, would be allowed to return to the workplace to work onsite. As a concession, during the transition in the implementation of WVM, partially vaccinated workers were allowed to work onsite until 31 January 2022 after obtaining a negative test result (valid for 24 hours) through a Pre-Event Test ("PET") at a MOH-approved COVID-19 test provider.
>
> (b) The claimant received his first dose of the Sinopharm vaccine on 30 December 2021 and was due for his second dose sometime in January 2022. He was allowed to work onsite subject to strict compliance with the WVM.
>
> (c) On 8 January 2022, the claimant submitted a positive PET test result and he proceeded to undergo a PCR test which also turned out to be positive.

---

126 Christabell's AEIC, at paras 16–25.

(d) On 23 January 2022, MOH issued a press release announcing that it was investigating Wan Medical Clinic for improper conduct of PET and falsification of vaccination records. A registered medical practitioner in Wan Medical Clinic, Dr Jipson Quah, was alleged to have submitted a false positive Antigen Rapid Test result so that the unvaccinated patient could be exempted from vaccination-differentiated safe management measures. The press release also stated that MOH would be issuing notices of intention of suspension to four medical clinics which were licensed to Dr Jipson Quah or at which he was a clinic manager.

(e) All the members of the SDC were also members of the defendant's SingHealth Disease Outbreak Taskforce ("SDOT"), whose role is to formulate strategies and direct the defendant's operations during an outbreak.

(f) In light of the MOH's announcement regarding Wan Medical Clinic, the SDC members (who were also members of the SDOT) mentioned during the SDC's meeting on 24 January 2022 that as a matter of prudence, there was a need to ensure that none of the defendant's staff had reported a positive PCR test issued by any of the four clinics referred to the MOH press release. It was therefore necessary to obtain details of where the claimant did his PCR test.

In her oral testimony, she confirmed that para 1.5 did not pertain to the discussion on the claimant's dismissal.[127]

---

127 NE, 5 August 2024, at 119:11–23 and 120:20–25.

134 I accept the above evidence. It is also supported by the language used in para 1.5, which starts with the phrase "On a separate note". I reject the claimant's submission that the issue relating to his PCR test was a factor in the decision to dismiss him.

135 In my view, the defendant had fully complied with its contractual obligations before dismissing the claimant.

Whether the defendant failed to apply the appropriate standard of proof or consider the relevant factors

136 The claimant pleads that the defendant violated due process by failing to apply the appropriate standard of proof.[128] It is not clear how this is relevant in this case. It is for this court to determine whether, on a balance of probabilities, the evidence before this court supports the defendant's case that his dismissal is justified. In my view, the evidence shows that the claimant's dismissal is justified.

137 The claimant also pleads that the defendant violated due process by failing to consider whether:[129]

(a) there was an intentional, deliberate departure from standards observed or approved by members of the profession of good repute and competency; or

(b) there had been such serious negligence that it objectively portrayed an abuse of the privileges which accompanied registration as a medical practitioner.

---

128 SOC, at para 16.2.

129 SOC, at para 16.10 read with para 15.9.

I cannot see how this is relevant. The claimant was dismissed because he accessed records of patients not under his care in breach of breach of cl 39.2 of his Employment Contract.

138 The claimant further pleads that the defendant violated due process because it failed to apply the test for professional misconduct which requires the court or tribunal to engage in a three-stage inquiry.[130] Again, this is irrelevant. The present case does not involve a determination of professional misconduct by a court or a tribunal (*eg*, a Disciplinary Tribunal constituted under the MRA). Here, the claimant was dismissed by the defendant (as his employer) for breaching a term of his Employment Contract.

Whether the defendant failed to provide the claimant with the opportunity to be represented by counsel

139 The claimant pleads that the defendant violated due process by failing to provide him with the opportunity to be represented by counsel during the SDC's deliberations.[131] It is not clear whether the claimant's complaint relates to the ET COI or the SDC. In any event, it is unarguable that there is nothing in the terms applicable to the claimant's Employment Contract that gives him the right to be represented by counsel.

140 In his Statement of Claim, the claimant alleges that the failure to provide him with the opportunity to be represented by counsel was in breach of cl 2.2 of the COI Policy.[132] However, clearly, there is nothing in cl 2.2 (see [126] above)

---

130 SOC, at para 16.11, read with para 15.10.

131 SOC, at paras 16.4 and 18.5.

132 SOC, at para 18.5.

that gave the claimant the right to be represented by counsel whether before the ET COI or the SDC.

141 In his Statement of Claim, the claimant also refers to s 59A(3) of the MRA, which provides a registered medical practitioner the right to be represented by counsel in proceedings before a Disciplinary Tribunal.[133] Section 59A(3) of the MRA is clearly irrelevant for present purposes. It has no application to the proceedings before the ET COI or the SDC.

Whether the defendant failed to provide the claimant an opportunity to produce evidence, etc

142 The claimant pleads that the defendant violated due process by failing to provide him with the opportunity to produce evidence, cross-examine witnesses, obtain documentary evidence from the defendant, present defences and justifications to his actions and present factors for mitigation.[134] In my view, the claimant's complaints are without merit.

143 Rules of natural justice do not apply in the context of private contracts; in contracts of employment, absent a term in the contract to the contrary, there is no basis for finding that an employer is obliged to accord to an employee the right to any particular process before undertaking any action: *Leiman* at [124] and [126].

144 In the present case, under para 2.4(d) of the Discipline Policy, the claimant may be dismissed only following due inquiry by a formal COI that will ascertain the grounds for dismissal and accord the claimant the opportunity to

---

133 SOC, at para 15.3.

134 SOC, at paras 16.5–16.9.

explain himself.[135] Clause 2.2 of the COI Policy requires the defendant to grant the claimant due process and opportunity to explain himself in disciplinary proceedings.[136]

145 The ET COI conducted the requisite due inquiry into the claimant's breaches of confidentiality. As stated in [123] above, the claimant conceded that he was given ample opportunity to explain his reasons for his actions.[137] He had the opportunity to produce evidence, to provide his defences and justifications for his actions and to provide his mitigation. There is no evidence that he sought and was denied any specific documentary evidence.

146 As for cross-examining witnesses, there is nothing in the terms of the claimant's Employment Contract (including the Discipline Policy and the COI Policy) that gives the claimant the right to do so. I note that cl 2.2 of the COI Policy refers to "due process". However, in the absence of an express stipulation, this does not include a right to cross-examine witnesses. As cl 1.1 of the COI Policy states, the COI Policy is designed to provide a flexible but consistent framework for fair and timely resolution of allegations of misconduct under varied circumstances. Subject to the obligation to allow the claimant to explain himself, it was for the ET COI to decide on the specific procedures of the proceedings before it. In any event, there is no evidence that the claimant even asked to cross-examine the witnesses. Further, as stated earlier, the claimant had admitted to having committed a pattern of unauthorised access of records of patients who were not his patients.

---

135 ABD 80.

136 ABD 114.

137 NE, 29 July 2024, at 89:8–14; NE, 8 August 2024, at 121:3–4.

Whether the defendant failed to provide the claimant the opportunity to appeal

147 The claimant pleads that the defendant violated due process by failing to provide him with the opportunity to appeal to the High Court.[138] There is no basis for this complaint. The claimant's dismissal is a matter of private contract between the claimant and the defendant. The question of a right of appeal does not arise. If the claimant disagrees with the decision to dismiss him, his right is to challenge his dismissal in court, which he has done in these proceedings.

148 In his statement of claim, the claimant refers to s 59G of the MRA, which provides for the right to appeal to the High Court against a decision or order by the Disciplinary Tribunal.[139] That, of course, is irrelevant to the present case, which does not involve proceedings before a Disciplinary Tribunal under the MRA.

Whether the defendant had to provide the claimant with the results and conclusions of its investigations and proceedings

149 The claimant pleads that the defendant violated due process by failing to provide him with the results and conclusions of the investigation and proceedings into his alleged professional misconduct.[140]

150 However, the claimant has not referred me to any term of his Employment Contract (including the defendant's policies) under which the defendant was obliged to provide him with the results and conclusions of its investigations and proceedings.

---

138 SOC, at para 16.12.

139 SOC, at para 15.6.

140 SOC, at para 16.13.

151 The claimant had the right to explain himself to the ET COI. He was therefore entitled to know what were the allegations that he had to respond to. In my view, it was sufficient that the claimant was asked to respond to the following allegations:[141]

(a) that he had committed a pattern of unauthorised access to the case notes and records of patients not under his care with the intention to find fault with his colleagues; and

(b) that he had made unauthorised access to the case notes and records of patients with the intention of finding fault with Dr Chen and Dr Kirollos.

152 As for the SDC, as discussed above, the claimant was not entitled to be heard. The question as to whether he should have been provided with the ET COI's report does not arise.

Conclusion on wrongful dismissal claim

153 In my judgment, it is clear that the defendant was fully justified in dismissing the claimant. The claimant's claim for wrongful dismissal therefore fails.

Whether the defendant is liable for negligence

154 The claimant's claim for negligence has morphed. His pleaded case is that the defendant breached its duty to take care to not destroy his future employability.[142] However, he has not pleaded how this duty was breached. To

---

141 ABD 381–382.

142 SOC, at para 16A.

the extent that this is based on the claimant's allegation that his dismissal was wrongful, the claim fails as I have found that his dismissal was not wrongful.

155 In his written closing submissions, the claimant's case appears to be that the defendant breached its duty of care by making the decision to dismiss him for breach of confidentiality without referring his case to the SMC, and without carrying out the appropriate procedures.[143] This claim too must fail. As discussed earlier, the defendant was not obliged to refer his case to the SMC, and the defendant had fully complied with its contractual obligations to carry out due inquiry and to give the claimant the opportunity to explain himself.

156 During oral closing submissions, the claimant's case changed again. He submitted that the duty of care was to exercise care in making the determination that the claimant had indeed breached patient confidentiality before deciding to dismiss him.[144] Again, this claim fails as I have found that the defendant's decision to dismissal the claimant is justified. During oral submissions, the claimant also conceded that there would not be a breach of duty if the defendant's decision is justified.[145]

Conclusion on claim for negligence

157 In my judgment, the claimant's claim for negligence also fails.

---

143 Claimant's Skeletal Submissions, at para 13.

144 NE, 8 August 2024, at 5:10–17.

145 NE, 8 August 2024, at 6:4–18.

The claimant's claims for damages

158 It is not necessary for me to deal with the claims for damages as I have found that claimant has failed in his claims for wrongful dismissal and/or negligence.

The claimant's request for redaction

159 In his closing submissions, the claimant requested redaction of his full name in the event that his claim succeeded.[146] His reasons were that:

(a) he did not wish to be "famous";

(b) if his children thought he was someone special and potentially rich, they will grow up spoiled; and

(c) he was concerned that his family members in Malaysia may receive threats or be kidnapped for ransom.

160 As the claimant has not succeeded in his claim, his request for redaction is irrelevant. In any event, the reasons given by him would not have been sufficient grounds for redaction.

Conclusion

161 For the above reasons, I dismiss the claimant's claim in its entirety. The claimant is to pay costs to the defendant to be assessed if not agreed.

162 It was purely fortuitous that when the COVID-19 restrictions were implemented, Dr Chen was locked down at SGH and that gave him more

---

146 Claimant's Skeletal Submissions, at para 46.

opportunities to work with Dr Kirollos on skull base cases. The claimant, who was locked down at SKH, did not have similar opportunities. It is unfortunate that the claimant's envy of Dr Chen got the better of him and eventually led him to breach patient confidentiality in his endeavours to take down Dr Chen.

163 The claimant's rhetoric about breaching patient confidentiality in the interests of patient safety sounds hollow. Patient safety is of course a paramount concern in hospitals, and it is right that issues of patient safety should be raised. However, concerns about patient safety should be raised to the relevant authorities for them to investigate. It was not for the claimant to carry out his own investigations by breaching patient confidentiality. Further, the evidence shows that the claimant's actions (in breaching patient confidentiality) were more likely driven by his single-minded desire to take down Dr Chen. In my view, any harm that the claimant's career may have suffered in this case has been self-inflicted.

Chua Lee Ming
Judge of the High Court

The claimant in-person;
Kuah Boon Theng SC, Yong Shuk Lin Vanessa, and Shenna Tjoa
(Legal Clinic LLC) for the defendant.
