

**Dates:** 07/02/2017

**Medical Practitioner's name:** Dr Farhan ZAIDI

**GMC reference number:** 4107190

**Primary medical qualification:** MB BS 1994 University of London

**Type of case**

Review - Misconduct

**Outcome on impairment**

Not Impaired

**Summary of outcome**

Conditions revoked

**Tribunal:**

Legally Qualified Chair	Mr Jetinder Shergill
Lay Tribunal Member:	Mrs Jillian Alderwick
Medical Tribunal Member:	Mr Gurpreet Singh

Tribunal Clerk:	Ms Rebecca Faulkner
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**Attendance and Representation:**

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Carol Davis, Counsel, instructed by Berrymans Lace Mawer.
GMC Representative:	Mr Hugh Barton, Counsel, instructed by GMC Legal.

**Attendance of Press / Public**

The hearing was all heard in public.

**Determination on Impairment - 07/02/2017**

## **Record of Determinations – Medical Practitioners Tribunal**

Dr Zaidi:

1. The Tribunal has been informed of the background to your case which was first considered by a Medical Practitioners Tribunal concluding on 2 February 2016 (the 2016 Tribunal). This Tribunal is reviewing your progress since the 2016 Tribunal.

### **Background**

2. Between October 2012 and July 2013, you issued 99 Employment Tribunal claims (ET claims) against 15 different National Health Service (NHS) Trusts. The claims took place in the context of your applications for Consultant posts and involved your robust views on patient safety issues. The claims related to your contention that you had suffered discrimination in the course of seeking employment, on the grounds religion, race, age and as a consequence of making protected disclosures relating to patient safety concerns. Legal proceedings were issued against the Trusts. The GMC did not assert that the ET claims you made were ill founded, but took the position that your conduct was vexatious in the aftermath of the claims being filed; that it resulted in a waste of NHS resources and that it was intended to elicit unwarranted financial reward.

3. The 2016 Tribunal found that you had made a number of very serious allegations against colleagues (when defining colleagues, the 2016 Tribunal included NHS managers and potential colleagues) without producing reasonable objective evidence to support your claims. The 2016 Tribunal noted that your conduct was repeated over a period of time, and considered that it wasted NHS resources and harmed some colleagues. The 2016 Tribunal was satisfied that your conduct fell far below the standards to be expected of a registered medical practitioner and undoubtedly amounted to misconduct. It considered that your misconduct in impugning the integrity of colleagues and making ill-founded and alarmist statements about the risk to patients, was so serious that it would undoubtedly erode public confidence in the profession if a finding of impairment was not made. The 2016 Tribunal considered the risk of repetition of this misconduct if you were placed in a similar position again. It concluded that the risk of repetition was low, provided that the existing support mechanisms you had remained in place.

4. The 2016 Tribunal noted a number of positive and supportive testimonials from clinical colleagues and mentors (Mr A and Mr B) and the evidence adduced indicating that you had made considerable efforts to gain insight into your misconduct. The 2016 Tribunal noted that there had been no harm to patients and that there was evidence before it of impeccable interpersonal behaviour and a high standard of clinical competence in the period before and after the events took place. You had engaged in mentoring and have reflected on and accepted the criticisms that have been made of you. The 2016 Tribunal concluded that your misconduct could be addressed by a period of conditional registration, imposed for a period of 12 months.

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5. The 2016 Tribunal noted that a Tribunal reviewing your case may be assisted by the following:

- A statement demonstrating further reflection on your misconduct
- Evidence that you have engaged effectively in the mentoring process
- Any other information that you feel will assist a Review Tribunal

### **Today's Hearing**

6. This Tribunal has reviewed your case and has considered in accordance with Rule 22(1)(f), of the General Medical Council (Fitness to Practise) Rules Order of Council 2004, whether your fitness to practise is currently impaired by reason of misconduct. In so doing it has considered the documentary evidence adduced together with the submissions made by Mr Barton, Counsel on behalf of the GMC and those made by Ms Davis on your behalf.

7. The Tribunal has reviewed the progress that you have made since your last hearing. It has considered whether your fitness to practise continues to be impaired by reason of your misconduct. It has taken into account all the evidence presented to it.

8. The Tribunal notes the two workplace report forms, dated 22 March 2016 and 4 July 2016 from Mr C of Queen Alexandra Hospital where you worked until 31 August 2016. Mr C confirms there were no significant concerns with your practice. The Tribunal notes that after 31 August 2016 you took a short break to spend time with your wife and family before applying for positions with TXM Healthcare and other agencies. Each agency was made aware of your conditions of practice.

9. The Tribunal notes that Mr B Consultant Ophthalmic Surgeon and Clinical Director for Ophthalmology and Mr A Consultant Ophthalmologist continue as your mentors, approved by Mr D, your responsible officer at the material time. Detailed evidence has been supplied of your regular face to face and telephone meetings with your mentors. Mr E of TXM Healthcare is presently your responsible officer.

10. In his letter to the GMC of 3 November 2016, Mr B writes "When we met face to face we had a long and thorough discussion about the matters under investigation. He has had much time to reflect on all these issues and has a pragmatic and determined approach to resolve all the problems. I believe that he will now be able to deal differently with any issues that arise. I am very pleased and encouraged by his progress in all areas discussed. We will continue to phone, and we also have a face to face meeting scheduled this month."

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11. The Tribunal notes Mr A's letter to the GMC of 8 November 2016, where he stated: "his [your] approach to the mentoring process was very positive from the beginning. He showed insight and appreciation that he was given the opportunity to reflect. His thoughts and words showed deep remorse and genuine regret that any of these events ever happened. He reflected on the events and now he knows very well that the recognised channels are the best way to express concerns about standards of care. Also he is now totally convinced that e-mails are to be used and treated the same way as written letters, showing courtesy and respect and not using inflammatory language, as he recorded in his reflective diary....I am convinced that what happened was a transient departure from his usual conduct. I am sure these events will never be repeated. Moreover, Dr Zaidi has developed strategies to avoid such issues ever arising in the future, as he outlined in his diary..."

12. The Tribunal has considered the letter dated 21 Nov 2016 letter from Berryman Lace Mawer Solicitors, on your behalf to the GMC providing evidence of your compliance with conditions since effective date of 4 March 2016, and including your detailed reflective diary and reflective statement. Additionally, the letter enclosed a 360 degree feedback report from Portsmouth Hospitals NHS Trust, dated 29 July 2016. The Tribunal has noted the full content of the report and the summary of the feedback provided by Mr F, Consultant Ophthalmologist, which states "Excellent scores. High % of nominated individuals responded. Average score 3-4. No scores <3".

13. The Tribunal notes the positive comments made about you within the 360 Degree report from colleagues, including: "Is supportive, approachable and a team player", "Takes responsibility for own actions and on behalf of the team" and "Is honest and trustworthy". "Mr [Zadi] is a brilliant consultant and patients always speak highly of him". "Dr Zaidi is a quiet, unassuming man who is always a pleasure to work with. He is always respectful towards his colleagues, no matter what their role in the organisation". "He is of a pleasant disposition, with excellent clinical/communication skills". "Mr Zaidi is a very supportive consultant who is always willing to teach and train doctors. He has a calm approach and is very efficient. He is kind and approachable to colleagues at all times, even in busy clinic settings. I have thoroughly enjoyed working with him".

14. The Tribunal has borne in mind the content of your undated reflective statement, where you write that you: "fully accept the findings made by the MPTS in February 2016" and that "My mentoring helped me to further understand my past behaviour in 2013 and how it was wrong. It also helped me deal with matters should such situations ever arise in future." You state that "In certain email communications I made in 2013 I expressed myself in a manner that fell well short of a professionally acceptable standard of communication....I made comments which impugned the character of colleagues at other organisations and who were, while not my work colleagues, nevertheless colleagues in the broader sense of the word. I also made ill-founded, disproportionate statements about care. You state

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that you are now “ashamed” of these emails and that you “now realise that the statements were disproportionate, although I did not realise it at the time. It would have been unthinkable of me to have made such comments to work colleagues. My mistrust led to me making ill-judged allegations which wasted time and resources of busy colleagues.”

15. You state that your mentors have helped you develop practical strategies to deal with such situations should they develop again, writing:

“This has been through self-reflection, practical thinking about my interactions with colleagues, and working through a number of scenarios with my mentors. I herein set out below the strategies I have developed:

- To extend the same high degree of professional respect which I give to my work colleagues to all colleagues, including managers and potential colleagues.
- To remind oneself of the fuller consequences of one's actions
- When faced with strong feelings and anger, rather than to react by firing off an email, to pause, cool down, think and reflect with a clear mind.

In the period since the MPTS gave their determination I have continued to reflect deeply and meaningfully. My reflections and my feeling of having developed greater maturity and insight through this period does not however curtail the extent of my feelings. I am deeply conscious and very sorry for what I did and understand why it was wrong and understand how not to repeat these mistakes”.

16. The Tribunal has noted the detailed content of your reflective diaries, wherein you express your continued developing insight into your actions and ‘vexing’ behaviour, express your remorse, and recognise that you had ‘impugned’ the characters of colleagues.

17. In your statement to the GMC of 18 January 2017 you state that as yet, you have “not been able to secure a role, despite being willing to seek employment far from home. Prior to having conditions (interim or substantive), I was always able to secure work through locum agencies within 2 to 3 weeks. I therefore believe that the existence of my conditions is making my search for work much more difficult. Being unable to secure work is having a significant financial impact on me and my family as I am the sole earner, supporting my wife and our four children (ages 11, 7, 2 and 10 months).”

18. The Tribunal has had regard to the most recent letters to the GMC from your mentors. In his letter of 16 January 2017, Mr B writes: “When we met face to face we had a long and thorough discussion about the matters under investigation. He had had much time to reflect on all these issues and has a pragmatic and determined approach to resolve all the problems, I believe that he will now be able

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to deal differently with any issues that arise. I am very pleased and encouraged by his progress in all the areas discussed. Therefore I do not believe that there is anything further to be gained from the mentoring process. If Dr Zaidi's conditions were to be revoked, I would be more than happy for him to contact me for advice whenever any specific problems were to arise."

19. In his letter of 31 January 2017, Mr A writes: "In my opinion, the formal mentoring has now fulfilled its purpose fully and Dr Zaidi is a wiser and responsible person. I would like to add that I am happy to continue to give my support and advice to Dr Zaidi on an informal basis as a senior colleague as long as he needs...I would like to repeat what I said before, that I am convinced that what happened was a transient departure from Dr Zaidi's usual conduct and that I am sure that these events will never be repeated."

### **GMC Submissions**

20. Mr Barton told the Tribunal that there was no evidence of any non-compliance with the conditions on your registration and submitted that the GMC are neutral on the question of impairment, it being a matter for the Tribunal to decide.

### **Defence Submissions**

21. Ms Davis submitted that there is no evidence of current impairment at this time. She pointed the Tribunal to your compliance with the conditions, noting that you had met the notification duties, met your mentors on 16 occasions and emphasized your ongoing readiness and willingness to engage with the mentoring process, submitting that you had 'thrown yourself' into the process.

22. Ms Davis referred the Tribunal to the detailed reflective diary you had kept of your own volition, in addition to the formal mentoring sessions. She submitted that this diary continues to demonstrate your remorse for your past behaviour, and that you had wholly embraced the mentoring in a meaningful fashion. Ms Davis reminded the Tribunal that you had, on your own initiative, begun the mentoring process prior to your original hearing. She noted the professional opinion of both Mr A and Mr B that the mentoring process had been effective, and could now be safely concluded.

23. Ms Davis told the Tribunal that the period of 12 months has been sufficient to consolidate the progress you had already made at your initial hearing, and that the public will feel confident that you have embraced and undergone an intensive period of mentoring to allow you to fully understand where you 'went wrong'. She submitted that there is no evidence of any repetition of misconduct, and no aggravating factors suggesting any impairment or breach. She pointed to the 360 degree feedback report, commenting positively on your clinical and interpersonal skills.

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### **Tribunal decision**

24. In deciding whether your fitness to practise is impaired, the Tribunal has exercised its own judgement. It has borne in mind its responsibility to protect the public interest. The public interest includes the protection and promotion of the health, safety and wellbeing of the public, the maintenance of public confidence in the medical profession, and the maintenance of proper standards and conduct for the members of the profession.

25. The Tribunal notes that there are no patient safety issues in this case. It notes the rationale of the 2016 Tribunal in imposing conditions to satisfy the public interest, arising from misconduct. It notes that the scope of allegations against you were initially broad, but that the finding of impairment and sanction by the 2016 Tribunal narrowed the matters, in that the findings against you related in the main to communication with colleagues. The Tribunal notes that, at the time of the original hearing, you had already begun the process of mentoring and improvement. It also notes the fact that the misconduct arose in 2012/13 and there have been no further issues arising since.

26. The Tribunal has paid careful attention to the documentary evidence you have provided. It is satisfied that you have provided everything that the 2016 Tribunal suggested would be helpful to the Tribunal reviewing your case. The Tribunal has considered your personal reflective statements and diaries, which they found to be credible and genuine.

27. The Tribunal is further reassured by the efforts you have made in meeting the substantive requirement for you to undergo mentoring, noting also that you initially began this process of your own accord. The Tribunal considers that you have made significant progress in relation to the matters of concern which led to the imposition of conditions on your registration, and considers that you have considerable insight into your previous actions. The Tribunal has borne in mind both Mr B and Mr A's professional opinion that the mentoring has proven effective and valuable and that its purpose has been achieved. The Tribunal bears in mind Mr A's opinion that "I am convinced that what happened was a transient departure from Dr Zaidi's usual conduct and that I am sure that these events will never be repeated."

28. The Tribunal considers that in view of the evidence before it, relating to your full compliance with conditions, developed insight, and almost exemplary manner of remediation, the risk of repetition of misconduct has reduced from low, as found by the last Tribunal, to now being remote.

29. The Tribunal finds no basis to conclude that you presently pose a risk to public safety. Furthermore, the Tribunal does not believe that the public interest in

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maintaining confidence in the profession and in declaring and upholding proper standards of conduct and behaviour is served by continuing to restrict your practice.

30. Having considered all of the evidence before it, the Tribunal is satisfied that you now have full insight into your actions and considers that you are unlikely to repeat them. Accordingly the Tribunal has determined that your fitness to practise is no longer impaired. Therefore the Tribunal directs that the conditions on your registration will be lifted with immediate effect.

31. That concludes your case.

**Confirmed**

**Date** 07 February 2017

Mr Jetinder Shergill, Chair