

**PUBLIC RECORD**

**Dates:** 04/10/2016 - 05/10/2016

**Medical Practitioner's name:** Dr Mohammed HAQ

**GMC reference number:** 1401956

**Primary medical qualification:** MB BS 1967 Osmania

**Type of case** **Outcome on impairment**  
New - Conviction / Caution Impaired

**Summary of outcome**

Erasure

Immediate order imposed

**Tribunal:**

Lay Tribunal Member (Chair)	Mrs Joy Hamilton
Lay Tribunal Member:	Mr Peter Brown
Medical Tribunal Member:	Mr Gulzar Mufti

Legal Assessor:	Mrs Nicola Bircher
Tribunal Clerk:	Ms Angela Carney

**Attendance and Representation:**

Medical Practitioner:	Not present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Mr James Gelsthorpe, Counsel

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

### **Allegation and Findings of Fact**

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

1. On 17 March 2016 at the Crown Court at St Albans you were convicted upon indictment of:

- a. indecent assault on a female;
- b. indecent assault on a female;
- c. indecent assault on a female;
- d. indecent assault on a female;
- e. indecent assault on a female.

#### **Found proved in its entirety**

2. On 22 April 2016 you were sentenced to:

- a. 12 months imprisonment concurrent;
- b. 12 months imprisonment concurrent;
- c. 12 months imprisonment concurrent;
- d. 12 months imprisonment concurrent;
- e. 18 months imprisonment consecutive;
- f. ordered to sign sex offenders register for 10 years.

#### **Found proved in its entirety**

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

### **Attendance of Press / Public**

The hearing was all heard in public.

### **Determination on preliminary matters - 4 October 2016**

Mr Gelsthorpe, on behalf of the GMC:

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### **Service**

1. Dr Haq is neither present nor represented at the hearing. The Tribunal therefore first considered whether notice of this hearing had been properly served on him in accordance the General Medical Council ('GMC') (Fitness to Practise) Rules 2004, as amended ('the Rules').
2. The Tribunal had regard to the GMC's notice of allegation sent via email dated 23 August 2016 to Dr Haq's then legal representative, Ms Judith Duffin of BLM, who previously on 19 August 2016 confirmed that she had instructions to accept service. In an email dated 12 September 2016, Ms Duffin, informed the GMC that she was no longer instructed to act on behalf of Dr Haq and had forwarded the notice to Dr Haq's wife, at Dr Haq's registered address.
3. The Tribunal also had regard to the notice of hearing, dated 26 August 2016, sent by the Medical Practitioners Tribunal Service ('MPTS') to Dr Haq's registered address by Special Delivery.
4. In all the circumstances, the Tribunal was satisfied that notice had been served.

### **Proceeding in Absence**

5. The Tribunal then went on to consider whether to proceed with the hearing in Dr Haq's absence, pursuant to Rule 31 of the Rules.
6. In considering whether to proceed in Dr Haq's absence, the Tribunal has borne in mind the submissions made by you. Your submissions are a matter of record and the Tribunal has not rehearsed them in this determination. The Tribunal exercised its own judgement in making its decision. It has also borne in mind that it has the discretion to proceed with the case in the doctor's absence, though that discretion was to be exercised with the utmost care and caution and with the overall fairness of the proceedings in mind.
7. The Tribunal has taken account of the telephone note dated 15 September 2016 from Mrs X in which she informed the GMC that Dr Haq would not be attending the hearing and would not be legally represented. The Tribunal accepted this information assuming that Mrs X is in communication with Dr Haq and was acting on his behalf. The Tribunal noted that Dr Haq has not requested an adjournment nor indicated that he wished to be represented at the hearing either by a legal representative or by his wife.
8. In the circumstances, the Tribunal is satisfied that Dr Haq has waived his right to participate in this hearing or be represented. The Tribunal considered that were it to adjourn today, it is very unlikely that Dr Haq would attend a future

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hearing, given that he is currently serving a custodial sentence of up to thirty months.

9. The Tribunal has therefore determined that it is appropriate to proceed with the hearing in Dr Haq's absence. In reaching this decision the Tribunal has taken into account the seriousness of the allegations against Dr Haq and is of the opinion that it is in the public interest to hear this case without further delay. No purpose would be served by an adjournment. It considered that Dr Haq has been given the opportunity to be represented at the hearing and has chosen not to do so. The Tribunal reminded itself that the doctor's absence adds nothing to the GMC case and no adverse inferences will be drawn from it.

### **Determination on Facts - 4 October 2016**

#### **Background**

10. This case concerns an allegation of convictions against Dr Haq of sexual assault relating to four female patients, Ms E, Ms A, Ms G, and Ms J which date back to 1979.

11. You told the Tribunal that Dr Haq appeared before a GMC Professional Conduct Committee (PCC) hearing convened under Section 7 of the Medical Act 1978 in relation to misconduct towards Ms G and Ms J and that he was suspended for a period of 12 months.

12. You stated that the subject of the allegation before the Tribunal today is of a different character as the PCC were asked to consider the matter of misconduct and the Tribunal today is considering a conviction case.

13. The PCC made findings in 1981 with respect to misconduct only, under Section 7(1)(b) of the Medical Act 1978. The Tribunal is satisfied that it is appropriate at this stage to consider, under the Medical Act 1983 Section 35C (2)(c), the matters which led to a conviction as the distinction is made between matters arising from misconduct and from a conviction.

#### **Evidence**

14. The Tribunal considered the documents provided by the GMC:

- the Certificate of Conviction
- the Transcript of the summing up of His Honour Judge Bright QC
- The Medical Act 1978, Section 7

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### **The Tribunal’s Approach**

15. In reaching its decision the Tribunal carefully considered all the evidence adduced, including the submissions made by you, on behalf of the GMC. Your submissions remain a matter of record and accordingly the Tribunal has not rehearsed them in this determination.

16. The Tribunal was mindful that the burden of proof rests on the GMC and that it is for the GMC to prove the facts; the standard of proof is that applicable to civil proceedings, which is the balance of probabilities. Dr Haq does not have to prove anything.

### **The Tribunal’s findings**

17. The Tribunal has considered the paragraphs of the allegation separately and made the following findings:

#### **Paragraph 1**

18. On 17 March 2016 at the Crown Court at St Albans you were convicted upon indictment of:

- a. indecent assault on a female;
- b. indecent assault on a female;
- c. indecent assault on a female;
- d. indecent assault on a female;
- e. indecent assault on a female.

**Found proved in its entirety**

#### **Paragraph 2**

19. On 22 April 2016 you were sentenced to:

- a. 12 months imprisonment concurrent;
- b. 12 months imprisonment concurrent;
- c. 12 months imprisonment concurrent;
- d. 12 months imprisonment concurrent;

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- e. 18 months imprisonment consecutive;
- f. ordered to sign sex offenders register for 10 years.

### **Found proved in its entirety**

20. In reaching its decision, the Tribunal had regard to the provision set out in Rule 34(3) of the Rules which states:

'Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed.'

21. The Tribunal had regard to the Certificate of Conviction, dated 26 April 2016. It accepted the certificate as proof of Dr Haq's conviction and the sentence imposed as set out in paragraphs 1 and 2 of the allegation respectively. Accordingly, the Tribunal found paragraphs 1 and 2 of the allegation proved.

### **Determination on Impairment – 5 October 2016**

Mr Gelsthorpe:

1. The Tribunal has considered under Rule 17(2)(k) of the General Medical Council (GMC) (Fitness to Practise) Rules Order of Council 2004 whether, on the basis of the facts found proved, Dr Haq's fitness to practise is impaired.

#### **Submissions**

2. You referred the Tribunal to paragraph 65 of the GMC's Guidance Good Medical Practice (2013) (the GMP). You stated that there is no evidence that Dr Haq has remediated the behaviour which led to his conviction and reminded the Tribunal that, at his trial in March 2016, he denied the criminal offences against him. You submitted that this denial demonstrated a clear lack of insight into his actions and their effect on his victims.

3. You stated that Dr Haq's conviction merited an immediate custodial sentence and inclusion on the Sex Offender's Register for a period of ten years. You reminded the Tribunal of the seriousness of Dr Haq's offences which occurred against patients in the context of medical examinations, when the patients were at their most vulnerable. You stated that this was a serious and gross abuse of trust.

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4. You submitted that Dr Haq's actions have damaged the reputation of the profession and undermined public confidence in the profession. You submitted that Dr Haq's fitness to practise is impaired by reason of his conviction.

### **The Tribunal's Decision**

5. The Tribunal has given careful consideration to all of the evidence that has been adduced and has also taken account of your submissions, on behalf of the GMC.

6. The Tribunal has exercised its own judgement in considering the matter of impairment. Throughout its deliberations, the Tribunal has borne in mind its statutory overarching objective to protect and promote the health, safety and wellbeing of the public, promote and maintain public confidence in the medical profession and promote and maintain proper professional standards of conduct of the profession.

7. The Tribunal also had regard to paragraphs 53 and 65 of the current edition of GMP, which states:

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

65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession."

The Tribunal has no evidence of what Good Medical Practice principles applied in 1970' and 80's, but are of the view that this longstanding ethos would have applied at the time of these events.

8. The Tribunal considered that Dr Haq's conviction, on five counts of sexual assault, is serious. Dr Haq's criminal behaviour took place in a clinical setting and involved wholly inappropriate behaviour towards four female patients. The Tribunal considered that Dr Haq's criminal conduct demonstrated a pattern of inappropriate behaviour towards female patients and constituted a gross breach of trust.

9. The Tribunal considered that Dr Haq's behaviour towards these patients demonstrated a serious departure from GMP and breached fundamental tenets of the profession. Dr Haq's conviction has undermined the trust which patients place in doctors, brought the profession into disrepute and damaged public confidence in the profession. The Tribunal is in no doubt that such behaviour would be regarded as deplorable by fellow practitioners.

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10. The Tribunal considered the issue of remediation and whether there was evidence of any steps taken by Dr Haq to address the behaviour which led to his conviction.

11. The Tribunal noted that Dr Haq denied all of the allegations which led to his conviction. In summing up, His Honour Judge Bright QC, stated:

‘...The case for the defendant, on the other hand is that he acted appropriately at all times and that there was good medical reason for each and every examination, which he carried out.’

In convicting Dr Haq it was apparent that the jury did not accept this argument. The Tribunal concurs with the view that his continued denial of his wrongdoing demonstrates a lack of insight.

12. The Tribunal has also noted that there has been no apology to the patients he sexually assaulted. Dr Haq has not provided this Tribunal with any evidence or written submissions. As such the Tribunal has no evidence as to his current level of insight or of any remedial steps he may have undertaken. Given that the Tribunal has no evidence of Dr Haq’s current level insight it cannot be satisfied that there is no risk of repetition.

13. The Tribunal has concluded that, given the gravity of Dr Haq’s offences, his denial and apparent lack of insight, public confidence in the profession would be seriously undermined if a finding of impairment was not made in the circumstances of this case. It has therefore determined that Dr Haq’s fitness to practise is impaired by reason of his conviction.

### **Determination on Sanction – 5 October 2016**

Mr Gelsthorpe:

1. Having determined that Dr Haq’s fitness to practise is impaired by reason of his convictions, the Tribunal has now considered what action, if any, it should take with regard to his registration.
2. In so doing, the Tribunal has given careful consideration to all the evidence adduced, together with your submissions on behalf of the General Medical Council.
3. You referred the Tribunal to the Sanctions Guidance (the SG). You stated that the Tribunal should consider any mitigating and/or aggravating features of this case.
4. You reminded the Tribunal that the total lack of evidence or testimonials from Dr Haq indicated there are no mitigating features in this case.



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5. You submitted that the aggravating features include Dr Haq's lack of insight and the not guilty plea he entered at the criminal trial during which he demonstrated no empathy for his victims, given that it required them to give evidence in court.

6. You referred the Tribunal to the GMC's previous disciplinary hearing relating to two of his victims, Ms G and Ms J, in which the Professional Conduct Committee found the allegation proved. Notwithstanding the findings of the previous disciplinary hearing, Dr Haq's lack of insight remains, as he continued to deny his actions during the criminal court hearing in 2016. You emphasised that the previous disciplinary proceedings of themselves do not amount to an aggravating feature.

7. You submitted that neither conditions nor suspension would be sufficient to protect the public or uphold the standards within the profession in this case. The actions which led to Dr Haq's convictions were fundamentally incompatible with continued registration. You submitted the appropriate sanction in this case is one of erasure.

8. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement.

### **The Tribunal's Approach**

9. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that the purpose of the sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.

10. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Haq's interests with the public interest. The public interest includes, amongst other things, the protection of patients, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour.

11. When considering the matter of sanction the Tribunal has borne in mind that this is a conviction case and therefore it did not seek to address Dr Haq's misconduct in 1981.

### **The Tribunal's Decision**

#### **No Action**

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

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13. The Tribunal considered that there are no exceptional circumstances in this case. The Tribunal determined that in view of the serious nature of Dr Haq's criminal convictions and the Tribunal's findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to justify taking no action.

### **Conditions**

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

15. The Tribunal is of the opinion that a period of conditional registration would not adequately reflect the serious nature of Dr Haq's convictions; nor, in a case involving sexual offences, could conditions be devised that would protect the public interest and maintain public confidence in the medical profession. The Tribunal has, therefore, determined that it would not be sufficient to direct the imposition of conditions on Dr Haq's registration.

### **Suspension**

16. The Tribunal then went on to consider, in the light of Dr Haq's convictions for serious offences, whether suspending his registration would be appropriate and proportionate. It has considered the guidance relating to acknowledgement of fault, insight and the message which needs to be sent out to the public. The Tribunal was not satisfied that there has been adequate, if any demonstration of the criteria set out in the SG to justify a sanction of suspension. Therefore, it has determined that, in the particular circumstances of this case, it would not be sufficient nor proportionate to suspend his registration.

### **Erasure**

17. The Tribunal then went on to consider whether erasure would be appropriate and proportionate. Paragraph 102 of the SG states:

"Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor."

18. Whilst the Tribunal is aware that Dr Haq is presently serving a custodial sentence and it may be argued that he does not currently present a risk to patients, the Tribunal is mindful of the necessity to maintain public confidence in the profession. The Tribunal considered that Dr Haq's actions which led to his

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convictions, show a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession, and that they are incompatible with continued registration as a doctor.

19. The Tribunal considered that the following factors of paragraph 103 of the SG were engaged in Dr Haq's case:

a A particularly serious departure from the principles set out in *Good medical practice* where the behaviour is fundamentally incompatible with being a doctor.

b A deliberate or reckless disregard for the principles set out in *Good medical practice* and/or patient safety.

c Doing serious harm to others (patients or otherwise), either deliberately or through incompetence and particularly where there is a continuing risk to patients

d Abuse of position/trust

e Violation of a patient's rights/exploiting vulnerable people (

f Offences of a sexual nature, including involvement in child pornography

g ...

h ...

i ...

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

20. The Tribunal also had regard to the sections in the SG which relate to abuse of professional position, predatory behaviour and sexual misconduct.

21. Balancing all these factors, the Tribunal has determined that Dr Haq's conviction is fundamentally incompatible with his continuing to practise medicine. The Tribunal is of the view that the public interest requires that it be made clear that Dr Haq's behaviour which led to his conviction, is unacceptable for a member of the medical profession.

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22. Accordingly, the Tribunal has determined to direct that Dr Haq's name be erased from the Medical Register. In the light of all the evidence presented to it, it is satisfied that erasure is a proportionate sanction in this case.

23. The effect of the foregoing direction is that, unless Dr Haq exercises his right of appeal, his name will be erased from the Medical Register 28 days from the date on which written notice of this decision is deemed to have been served upon him.

### **Determination on Immediate Order – 5 October 2016**

Mr Gelsthorpe:

1. Having determined that Dr Haq's name be erased from the medical register, the Tribunal has considered, in accordance with Section 38 of the Medical Act 1983, as amended, whether his registration should be subject to an immediate order.

2. You submitted, on behalf of the General Medical Council, that an immediate order of suspension is necessary and that Dr Haq's Interim Order of suspension should be revoked.

3. Having considered the submissions, and in the light of all the circumstances of the case, in particular, the serious nature of Dr Haq's convictions, the Tribunal is satisfied that it is necessary and in the public interest for his registration to be suspended forthwith. Therefore the Tribunal has determined that Dr Haq's registration is suspended with immediate effect. Dr Haq's interim order of suspension is hereby revoked.

4. The substantive direction for erasure, as already announced, will take effect 28 days from when notice is deemed to have been served upon Dr Haq, unless he lodges an appeal in the interim. If he does lodge an appeal, the immediate order for suspension will remain in force until the appeal is determined.

5. That concludes this case.

**Confirmed**

**Date** 05 October 2016

Mrs Joy Hamilton, Chair