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**Re: Dr Qureshi v The General Medical Council [2015] EWHC 3729 (Admin)**

**Abstract**

An appeal was brought pursuant to section 40 of the Medical Act 1983 against the findings of the Fitness to Practise Panel ('the Panel'), following which Dr Qureshi was erased from the medical register. The appeal challenged specific findings of fact; it was not brought to challenge the decision of impairment which is based on a 'wide-ranging adverse finding'.

**Background**

Dr Qureshi faced numerous heads of charges before the Fitness to Practise Panel ('the Panel'). Pertinent to the appeal are the findings that during a consultation with Dr P into health issues of Dr Qureshi, Dr Qureshi informed Dr P that he was retired despite continuing to work as a General Practitioner; the Panel found this information to be misleading and dishonest (the 'statement matter'). Further, during a separate consultation with two of his own patients E and F, Dr Qureshi swung a roll of tissue in the air, shouted at E and punched F ('assault matter').

In relation to the statement matter, the Panel did not find Dr Qureshi to be reliable – his evidence was confused, inconsistent and sometimes evasive (para 26). The Panel preferred the evidence of Dr P, which was said to be logical and consistent, and supported by his documentary evidence.

In relation to the assault matter, the Panel preferred the accounts of patients E and F which was said to be consistent with CCTV footage, whereas it found Dr Qureshi's account to be inconsistent with the footage. Further, the Panel found the evidence of Dr Qureshi's receptionist to have been inconsistent and muddled, and inconsistent with her witness statement. The Panel took into consideration evidence that Dr Qureshi had difficulties with anger and was losing his temper; it relied further on its earlier finding of similar conduct which occurred within weeks of the assault matter.

Consequent to its findings, the Panel deemed Dr Qureshi to be impaired and was of the opinion that he should be erased from the medical register.

## **Appeal**

Dr Qureshi brought an appeal to challenge the findings of fact, including the findings that he made a misleading statement and acted dishonestly in doing so. Dr Qureshi succeeded in respect of the challenge to the findings relating to the statement matter, although failed in relation to those arising from the assault matter.

King J said that 'the findings against [Dr Qureshi] as regards what he said and did not say to [Dr P] depended wholly upon the evidence of [Dr P] himself' (para 37) and when questioned '[Dr P] had no recollection of what was said or not said back in June 2011' (para 43), being reliant upon written evidence.

It was held that 'It was not upon [Dr Qureshi] to prove that he had said the words he said he had said. The burden was on the GMC to establish on the balance of probabilities that [Dr Qureshi] had only said that which is recorded in the letter of Dr P'.

In his judgment, King J said 'the Panel just do not explain how they could be satisfied on the balance of probabilities that that was all that was said, and that [Dr P] so many years on was a reliable witness for this purpose, when [Dr P] was wholly unable because of the passage of time, to explain the role played at the consultations and his thought processes in that regard...' (para 53).

King J summarised his decision in relation to the statement matter that on the evidence before the tribunal, including the matters not referred to by them, it is perverse to say that on the balance of probabilities the allegation has been made out (para 64). It was said that the decision is flawed 'not because on the face of it it does not read well, but because it fails to take into account that dishonesty is a finding against a professional

which is probably the most serious finding which a Panel can make, and requires very careful consideration of all factors before it is reached' (para 65). King J commented that the Panel 'were blinded from the need to assess carefully the reliability of [Dr P]' having taken a 'very poor view of Dr Qureshi and his credibility' (para 66). King J set aside the findings in relation to the statement matter.

In relation to the assault matter, King J held that the Panel did explain their credibility findings, by referring to the particular inconsistencies with the CCTV footage (para 72), such that the appeal court could not easily overturn a Panel's assessment of witness credibility.

The issue of dishonesty was set aside and the issue of sanction was remitted to the Panel to consider.

### **Salient points**

Adequate reasoning must be given for a finding of dishonesty, which is one of the most serious finding which a Panel can make.

If a poor view is taken by the Panel of the registrant and his credibility, there remains still the need for the Panel to assess carefully the reliability of other witnesses.

As in all cases before the Tribunal, the standard of proof in these cases is the civil standard; to make a decision on dishonesty, very careful consideration must be given to all of the evidence.

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