

PRIVATE RECORD

Dates: 04/05/2021 - 10/05/2021

Medical Practitioner's name: Dr Mohamed Ali Suleiman ALI

GMC reference number: 6089708

Primary medical qualification: MB BS 1982 University of Khartoum

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

Summary of outcome

Suspension, 12 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mrs Emma Boothroyd
Lay Tribunal Member:	Mrs Carol-Anna Ryan-Palmer
Medical Tribunal Member:	Dr Stephen Duxbury

Tribunal Clerk:	Ms Hollie Middleton
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Attendance and Representation:

Medical Practitioner:	Not present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Mr Charles Garside, QC

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public. In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Facts - 06/05/2021

Background

1. Dr Ali qualified with an MBBS in 1982 from the University of Khartoum in Sudan. Prior to the events which are the subject of the hearing Dr Ali was practising as a locum Consultant Paediatrician with Direct Medics Limited ('Direct Medics'). Dr Ali worked for Direct Medics from 21 June 2005 to 13 January 2017. At the time of the events Dr Ali was practising as a Consultant Paediatrician at the Imperial Hospital in Khartoum, Sudan.
2. The allegation that has led to Dr Ali's hearing can be summarised as that on 22 March 2019, Dr Ali completed or authorised another to complete on his behalf, a Revalidation Appraiser report form ('the Form') that contained false information. It is alleged that his actions were dishonest.
3. The initial concerns were raised when the GMC's Revalidation team received the Form on 9 April 2019 as part of another doctor, Dr A's, annual return. An appraiser report form is completed when a doctor has to provide evidence for their revalidation when they are not connected to a designated body. To be an appraiser for a doctor without a connection to a designated body, the individual must meet a number of criteria including holding GMC registration with a licence to practise and have a connection to a designated body. It is alleged that the Form had been signed or authorised by Dr Ali on 22 March 2019 in the knowledge that he did not hold a connection to a designated body and had not held a licence to practise since 11 May 2018.
4. Dr Ali stated that he gave his name to Dr A as she had asked him to put his name in her appraisal and that he thought that as long as she was working with him that he could do that. He further stated that it was a mistake and apologised for his error.

The Outcome of Applications Made during the Facts Stage

5. Dr Ali did not attend the hearing and on 4 May 2021, the Tribunal granted the GMC's applications, made pursuant to Rules 40 and 31 respectively, of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that notice of this hearing had been served on Dr Ali and that this hearing should proceed in his absence. The Tribunal did however, notify Dr Ali via email of its decision. It invited Dr Ali to provide any representations for the Tribunal to consider. Dr Ali did not respond. Its full determination can be found in Annex A.

The Allegation and the Doctor's Response

6. The Allegation made against Dr Ali is as follows;

1. On 22 March 2019 you completed a Revalidation Appraiser report form ('the Form') in which you:

a. confirmed that you had a prescribed connection to Direct Medics which was false; **To be determined**

b. confirmed that you met all the GMC criteria for being a medical appraiser set out in *A guide for doctors to the General Medical Council (Licence to Practise and Revalidation) Regulations 2012* (revised November 2013), including that you held a license to practise with the GMC, which was false; **To be determined**

c. declared that the information given in the Form was correct and true. **To be determined**

2. In the alternative to paragraph 1:

a. you authorised Dr A to complete the Form on your behalf using your details;
To be determined

b. you informed Dr A that you had a prescribed connection to Direct Medics.
To be determined

3. At the time the Form was completed you knew that:

a. you did not have:

i. a prescribed connection to Direct Medics; **To be determined**

ii. a licence to practise; **To be determined**

b. without a licence to practise you were not entitled to complete the Form or authorise anyone to complete it on your behalf. **To be determined**

4. Your actions at paragraph 1 above were dishonest by reason of paragraph 3. **To be determined**

5. In the alternative to paragraph 4:

a. your actions at paragraph 2a were dishonest by reason of paragraphs 3aii and 3b; **To be determined**

b. your actions at paragraph 2b were dishonest by reason of paragraph 3ai. **To be determined**

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

Evidence

7. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Mr B, Revalidation Operations Manager at the GMC, dated 20 September 2019, 7 April 2020 and 26 March 2021; and
- Ms C, Recruitment Director for Direct Medics, dated 10 October 2019.

8. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:

- Email correspondence between Dr Ali and GMC Registrations Services and GMC Revalidation Support, various dates from 11 January – 11 May 2018;
- Email exchange between Dr Ali and Direct Medics, dated 15 February 2019;
- Appraiser Report Form (REV12), dated 22 March 2019;
- A guide for doctors to the General Medical Council (Licence to Practise and Revalidation) Regulations 2012; and
- Email correspondence relating to these proceedings between Dr Ali and GMC Legal, various dates between 5 March and 27 April 2021.

The Tribunal's Approach

9. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Ali does not need to prove anything. No adverse inference has been drawn from Dr Ali's absence. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

10. In its deliberations on the paragraphs of the Allegation that allege dishonesty, the Tribunal applied the test set out by Lord Hughes in *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67* ('Ivey'). It bore in mind that it should first ascertain, subjectively, the actual state of Dr Ali's knowledge or belief as to the facts and should then decide whether his conduct was honest or dishonest by applying the objective standards of ordinary decent people.

11. The Tribunal considered Dr Ali's good character evidence as important and relevant to its considerations in two respects. Although it is not a defence to the allegations, Dr Ali's good character counts in his favour when assessing the credibility of his evidence and whether it should be accepted. Secondly, his good character is relevant in his favour, as it may mean it is less likely that he has acted in the way alleged.

The Tribunal's Analysis of the Evidence and Findings

12. The Tribunal has considered each outstanding paragraph of the Allegation separately, unless it was prudent to consider them collectively. The Tribunal has evaluated all of the evidence before it in order to make its findings on the facts.

Paragraphs 1 and 2

13. As paragraphs 1 and 2 of the Allegation refer to alternative factual backgrounds which underpin the subsequent paragraphs of the Allegation, namely whether Dr Ali completed the Form or authorised Dr A to do so on his behalf, the Tribunal decided to consider these paragraphs collectively.

14. In paragraph 1, it is alleged that, on 22 March 2019, Dr Ali completed a Revalidation Appraiser report form (the Form') in which he: confirmed he had a prescribed connection to Direct Medics which was false; confirmed that he met all of the GMC criteria for being a medical appraiser; and declared that the information given in the Form was correct and true.

15. In the alternative, paragraph 2, it is alleged that Dr Ali authorised Dr A to complete the Form on his behalf using his details and informed her that he had a prescribed connection to Direct Medics.

16. The Tribunal had regard to the Form, dated 22 March 2019. It noted that it was an online form containing Dr Ali's name, GMC reference number and stated that his prescribed connection was Direct Medics. Dr Ali's signature was only his name typed into the signature box. The Tribunal considered that the Form provided no determinative evidence about who had completed it and that it could have been completed by either Dr Ali or another person, such as Dr A, as stated by Dr Ali.

17. The Tribunal was mindful that some of the information contained within the Form could be in the public domain. It took the view that Dr Ali's name and GMC reference number could be easily accessed by someone looking at the Medical Register. However, it considered that the reference to Direct Medics being his prescribed connection would not be information easily found within the public domain. The Tribunal therefore concluded that Dr Ali must have supplied this information.

18. The Tribunal noted the email correspondence sent from Dr Ali to Revalidation Support at the GMC, dated 17 May 2019 in which he stated:

'...I just noticed recently that my license to practice was stopped and I sent a letter to restore it and I received the instructions how to restore it and I thought as long as dr working with me I can do that anyhow it is done by mistake and iam [sic] sorry for that...'

19. The Tribunal took into account the email correspondence sent by Dr Ali to the GMC, dated 21 October 2019 in which he stated:

'...as I mentioned before I just gave permission to my colleague to write my name and I noticed that my lisenca [sic] to practice was expired without my knowledge and I apologized for that...'

20. The Tribunal further noted Dr Ali's email to the GMC, dated 5 March 2021 in which he stated:

'...I sent many emails explaining the situation which was just happened in coincidence I gave my colleague who was an expert consultant and by the she signed the form the agency did not complete my appraisal and the body did not reply so it was not done purposely...' [sic]

21. The Tribunal concluded that Dr Ali's evidence that he provided Dr A with the information to complete the Form on his behalf was consistent throughout his emails. Taking all the evidence into consideration, including Dr Ali's previous good character, the Tribunal determined that, on balance, it could not conclude that Dr Ali personally completed the Form. It was of the view, it was more likely that Dr Ali provided Dr A with the information stated on the Form, including that his prescribed connection was to Direct Medics.

22. In reaching this conclusion the Tribunal noted that it had no evidence from Dr A regarding the circumstances surrounding completion of the Form. The Tribunal was not satisfied that the GMC had discharged its persuasive burden in relation to paragraph 1 of the Allegation. The Tribunal could not be satisfied on the evidence that Dr Ali had colluded with Dr A in completing the Form or had any involvement in completing the Form beyond providing the information to Dr A regarding his GMC details and his prescribed connection to Direct Medics.

23. Accordingly, the Tribunal found paragraphs 1a, 1b and 1c of the Allegation not proved and paragraphs 2a and 2b of the Allegation proved.

Paragraph 3a(i)

24. It is alleged that at the time that the Form was completed, Dr Ali knew that he did not have a connection to Direct Medics.

25. The Tribunal took into account Dr Ali's email correspondence with Direct Medics, dated 15 February 2019 in which he stated that he had renewed his registration with the GMC who had advised him to discuss matters relating to his licence to practise with his designated body, Direct Medics. Later that same day, Ms C replied to Dr Ali and stated:

'...Your designated body is the organisation through which you are currently carrying out all or most of your UK-based work; Direct Medics would unfortunately not be regarded by the GMC as being your designated body at this time as you have do not have a recent work history with the company. If you book work with us in future we could then become your designated body.

From the viewpoint of the GMC, ideally they would like everyone to have a designated body when they obtain their license and when they come to revalidate, but you are not obliged to have one and indeed quite a few doctors operate without one (your designated body can and most likely will change frequently throughout the revalidation cycle and indeed throughout your career). Whether you have a designated body is much less important than being able to demonstrate that you are continually engaging in revalidation when your revalidation date comes round; this means evidence of annual appraisals and multi-source feedback at least once every five years.

In the event that you book work with us in future and we do become your main employer in the UK, we would of course then be regarded as your designated body again also, so please do keep in touch with me and let me know if that occurs.'

The Tribunal concluded that this clearly stated to Dr Ali that Direct Medics was not his designated body a few weeks before the appraisal was conducted on 7 March 2019 and the Form was submitted on 22 March 2019.

26. The Tribunal was mindful of Dr Ali's assertion on 5 March 2021 that Direct Medics had not replied to his email of 15 February 2019 and had not completed his appraisal at the time the Form was completed. However, it took the view that, in the knowledge that there was a potential issue with his licence to practise, it was more likely that Dr Ali would have contacted Direct Medics again to chase their response. On balance, the Tribunal was therefore satisfied that Dr Ali had received the email from Direct Medics. It therefore concluded that at the time

that the Form was completed on 22 March 2019, Dr Ali knew that he did not have a prescribed connection to Direct Medics.

27. Accordingly, the Tribunal found paragraph 3ai of the Allegation proved.

Paragraph 3aii

28. It is alleged that at the time the form was completed, Dr Ali knew that he did not have a licence to practise.

29. The Tribunal noted that in the email dated 17 May 2019, Dr Ali advised the GMC that he had only realised '*recently*' that he did not hold a licence to practise and his further statement on 21 October 2019 that his licence to practise was stopped without his knowledge.

30. The Tribunal had regard to Dr Ali's email correspondence to the GMC, dated 11 January and 22 January 2018 in which he stated that he wanted to keep his GMC registration without a licence to practise. The GMC responded in an email dated 11 May 2018 in which Dr Ali was informed that:

'As per the emails you sent us on the 11 and 22 January 2018 asking to give up your licence to practise and maintain registration with us, we have now completed this action for you.

You no longer hold a licence to practise and must not undertake any form of medical practice within the United Kingdom for which a licence to practise with the GMC is required.'

31. The Tribunal was therefore not satisfied on the evidence before it that Dr Ali's licence to practise was revoked without his knowledge. It considered that the GMC's response made it clear to Dr Ali that he did not hold a licence to practise with the GMC. The Tribunal noted that there was no further evidence before it which indicated that Dr Ali has held a licence to practise since May 2018.

32. The Tribunal went onto consider Dr Ali's knowledge and belief at the time that the Form was completed. It took into account the email Dr Ali sent to Direct Medics, dated 15 February 2019 in which he stated:

'...I just renewed my Reg with Gmc and I spoke to them re my liscence to practice so they advised that I should discuss with my designated body which is directmedics who will sort things out so would you please ask who is in charge to deal with this matter or let them email me...' [sic]

33. On balance the Tribunal concluded that even if, as Dr Ali asserts that his licence to practise was stopped without his knowledge and he was not in receipt of the email dated 18 May 2018, the contents of his email to Direct Medics on 15 February 2019 demonstrate that he was aware that there was some issue with his licence to practise on that date and that he had spoken with the GMC about it. On the balance of probabilities, the Tribunal therefore concluded that Dr Ali knew that he did not have a licence to practise at the time that the Form was completed.

34. Accordingly, the Tribunal found paragraph 3a(ii) of the Allegation proved.

Paragraph 3b

35. It is alleged that at the time the Form was completed Dr Ali knew that without a licence to practise he was not entitled to complete the Form or authorise anyone to complete it on his behalf.

36. The Tribunal had regard to its previous finding that Dr Ali had authorised Dr A to complete the form on his behalf. It was not therefore satisfied that Dr Ali had sight of or read the Form itself or the guidance listing the criteria required to be an appraiser attached to it. The Tribunal considered it was likely that if Dr Ali had seen the Form and been required to tick all of the listed requirements it would have been evident to him that he was not a fit and proper person to complete the Form. Further, it appeared likely to the Tribunal that he would not have authorised Dr A to complete the Form knowing that the information within was being sent to and checked by the GMC and it would effectively invalidate Dr A's appraisal.

37. The Tribunal considered Dr Ali's evidence in his emails to the GMC stating that it was a 'mistake' and that he thought he could give Dr A his information to complete the Form as he was working with her. It considered that this shows that Dr Ali's state of mind at the time the Form was completed was that he was unaware that without a licence to practise he was unable to complete the Form. The Tribunal therefore concluded that there is no suggestion within the evidence that Dr Ali had read the guidance about being an appraiser or had it presented to him. The Tribunal was therefore not satisfied that Dr Ali knew he could not complete the form without a licence.

38. Accordingly, the Tribunal found paragraph 3b of the Allegation not proved.

Paragraph 4

39. It is alleged that Dr Ali's actions in completing the Form were dishonest because he knew that he did not have a prescribed connection to Direct Medics or a licence to practise and that he was not entitled to complete the Form or authorise anyone to complete it on his behalf.

40. The Tribunal previously found that Dr Ali did not complete the Form, it therefore follows that he could not have been dishonest in this regard. Accordingly, the Tribunal found paragraph 4 of the Allegation not proved.

Paragraph 5a

41. It is alleged that Dr Ali's actions in authorising Dr A to complete the Form on his behalf by using his details were dishonest because Dr Ali knew that he did not have a licence to practise and that without a licence to practise he was not allowed to authorise anyone to complete the form on his behalf.

42. The Tribunal previously found that Dr Ali did not know that he was not allowed to authorise the completion of the form on his behalf because he did not have a licence to practise. It was therefore not satisfied on the balance of probabilities that Dr Ali's actions in this regard were dishonest.

43. Accordingly, the Tribunal found paragraph 5a of the Allegation not proved.

Paragraph 5b

44. It is alleged that Dr Ali's actions in informing Dr A that he had a prescribed connection to Direct Medics were dishonest because that he knew he did not have a prescribed connection to Direct Medics.

45. The Tribunal had regard to its reasoning for finding that Dr Ali informed Dr A that he did have a prescribed connection to Direct Medics despite knowing that he did not have such a connection.

46. The Tribunal applied the test set out in *Ivey*. It has already determined, as set out above, the actual state of Dr Ali's knowledge or belief as to the facts. It was of the view that

as Dr Ali had not emailed Direct Medics to chase a response to his email dated 15 February 2019 which invited them to respond, Dr Ali was in receipt of their email the same day which advised him that Direct Medics was not his designated body for the reasons set out within that email. Dr Ali therefore knew that he did not have a prescribed connection to Direct Medics at the time the Form was completed.

47. Applying the second stage of *Ivey*, the Tribunal took into account the timeline of events, acknowledging that the email informing Dr Ali that he did not have a prescribed connection to Direct Medics was sent on 15 February 2019; the appraisal was conducted on 7 March 2019; and the Form was completed on 22 March 2019. It was satisfied that, Dr Ali in telling Dr A that he had a prescribed connection to Direct Medics when he knew that he did not, would be considered dishonest by the objective standards of ordinary, decent people.

48. Accordingly, the Tribunal found paragraph 5b of the Allegation proved.

The Tribunal's Overall Determination on the Facts

49. The Tribunal has determined the facts as follows:

1. On 22 March 2019 you completed a Revalidation Appraiser report form ('the Form') in which you:

a. confirmed that you had a prescribed connection to Direct Medics which was false; **Not proved**

b. confirmed that you met all the GMC criteria for being a medical appraiser set out in *A guide for doctors to the General Medical Council (Licence to Practise and Revalidation) Regulations 2012* (revised November 2013), including that you held a license to practise with the GMC, which was false; **Not proved**

c. declared that the information given in the Form was correct and true. **Not proved**

2. In the alternative to paragraph 1:

a. you authorised Dr A to complete the Form on your behalf using your details;
Determined and found proved

b. you informed Dr A that you had a prescribed connection to Direct Medics.
Determined and found proved

3. At the time the Form was completed you knew that:

a. you did not have:

i. a prescribed connection to Direct Medics; **Determined and found proved**

ii. a licence to practise; **Determined and found proved**

b. without a licence to practise you were not entitled to complete the Form or authorise anyone to complete it on your behalf. **Not proved**

4. Your actions at paragraph 1 above were dishonest by reason of paragraph 3. **Not proved**

5. In the alternative to paragraph 4:

a. your actions at paragraph 2a were dishonest by reason of paragraphs 3aii and 3b; **Not proved**

b. your actions at paragraph 2b were dishonest by reason of paragraph 3ai.
Determined and found proved

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

Determination on Impairment - 07/05/2021

1. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Ali's fitness to practise is impaired by reason of misconduct.
2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary.

Submissions

3. On behalf of the GMC, Mr Charles Garside, QC, submitted that Dr Ali's actions constituted misconduct and that his fitness to practise is impaired. He submitted that Dr Ali's actions were a serious departure from *Good Medical Practice (2013 Edition)* ('GMP'). He stated that Dr Ali had not taken the '*slightest care*' to look at the appraisal form or the guidance relating to appraisals. He reminded the Tribunal that it had found Dr Ali had acted dishonestly in providing information which he knew to be incorrect.
4. Mr Garside submitted that the appraisal system is '*at the heart*' of the GMC's regulatory function which relied on appraisal forms being completed properly and accurately. He stated that in allowing Dr A to submit the document on his behalf, knowing that it contained false information, Dr Ali's actions clearly constituted misconduct. He further submitted that the misconduct in this case is serious enough to allow the Tribunal to take the view that Dr Ali's fitness to practise is currently impaired.

The Relevant Legal Principles

5. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision on impairment is a matter for the Tribunal's judgment alone.
6. In approaching the decision, the Tribunal was mindful of the decision in *Cheatle v GMC [2009] EWHC 645 (Admin)*, which sets out a two-stage process when considering whether a doctor's fitness to practise is impaired on the ground of misconduct: first whether the facts found proved amount to misconduct; and, if so, secondly, whether the doctor's fitness to practise is currently impaired as a result.

7. The Tribunal had regard to the case of *Roylance v General Medical Council (No.2) [2000]1 AC 311 (UKPC)*. It states:

‘Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [medical] practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word professional which links the misconduct to the profession [of medicine]. Secondly, the misconduct is qualified by the word serious. It is not any professional misconduct which would qualify. The professional misconduct must be serious.’

8. The Tribunal referred to the guidance provided by Collins J in the case of in *Nandiv General Medical Council [2004] EWHC 2317 (Admin)*:

‘The adjective “serious” must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners...’

9. The Tribunal had regard to the test for impairment set out in *CHRE v NMC and Paula Grant [2011] EWHC 927 (Admin)*:

- a. *Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and*
- b. *Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and*
- c. *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and*
- d. *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

10. The Tribunal followed the guidance set out in *R (Cohen) v GMC [2008] EWHC 581 (Admin)*, and acknowledged it must determine whether Dr Ali’s fitness to practise is impaired today, taking into account Dr Ali’s conduct at the time of the events and any relevant factors

including whether the misconduct is easily remediable, whether it has been remedied and whether it was highly unlikely that there would be any repetition.

11. Throughout its decision-making process, the Tribunal was mindful of the overarching objective, and was careful not to place more weight on any one limb. It also had regard to guidance set out in GMP, which would assist it in assessing the standards and behaviour expected of Dr Ali.

The Tribunal's Determination on Impairment

Misconduct

12. In determining whether Dr Ali's fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amount to misconduct.

13. The Tribunal reminded itself of its findings so far, namely that Dr Ali authorised Dr A to complete the revalidation appraiser report form ('the Form') on his behalf when he knew he did not have a licence to practise or a prescribed connection to Direct Medics as a designated body. Dr Ali dishonestly told Dr A that he had such a connection to Direct Medics.

14. Where there have been serious departures from expected standards of conduct and behaviour, this can constitute misconduct as identified by reference to GMP. The Tribunal considered the preamble which states, '*Be honest and open and act with integrity.*' and following paragraph to be most relevant:

'71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.

a You must take reasonable steps to check the information is correct.

b You must not deliberately leave out relevant information.'

15. Although the Tribunal acknowledged its previous finding that Dr Ali had not completed the Form himself but had authorised Dr A to do so on his behalf, it considered that the principles in paragraph 71 of GMP applied. The Tribunal found that in authorising Dr

A to complete the Form with false information amounted to a serious departure from GMP. It agreed with Mr Garside's submission that the appraisal process is one of the key tenets of the GMC function which ensures the quality of licensed medical practitioners on the Medical Register. It considered that deliberately providing inaccurate information undermined that process. His actions had the potential to place patients at risk of harm.

16. The Tribunal was mindful that the GMC relies on the professionalism of doctors to maintain the revalidation process and considered that Dr Ali's actions in stating incorrect information were both unprofessional and inappropriate. The Tribunal noted that Dr Ali is an experienced doctor who was working at a consultant level. It took the view that he ought to have been aware or made himself aware of the guidance relating to and ensuring that he met the criteria required to complete the Form. The Tribunal concluded that, in failing to make himself familiar with the appropriate guidance and act with integrity, Dr Ali's actions amounted to misconduct.

17. The Tribunal was of the view that Dr Ali's actions constituted departures from GMP as identified. The Tribunal considered that Dr Ali's dishonest actions and lack of professionalism would be considered deplorable by his fellow practitioners. In the circumstances, it concluded that Dr Ali's conduct fell far short of the standards of conduct reasonably to be expected of a doctor and therefore amounted to serious misconduct.

Impairment

18. The Tribunal having found that the facts found proved amount to misconduct which was serious, went on to consider whether, as a result of that misconduct, Dr Ali's fitness to practise is currently impaired.

19. In determining whether Dr Ali's fitness to practise is currently impaired, the Tribunal considered whether there was any evidence of insight or remediation on the part of Dr Ali and whether there was a likelihood of him repeating his misconduct in the future.

20. The Tribunal acknowledged Dr Ali's apology and accepted that he had shown some remorse in stating that he was sorry for his mistake. However, it considered that it had not seen any evidence of insight from Dr Ali or any recognition of the potential damage to patient safety that could have resulted from providing false information and undermining the integrity GMC appraisal process. The Tribunal was mindful that it had seen no evidence of remediation from Dr Ali or any reflective documents to outline whether he would now

approach this situation differently. Taking all matters into consideration, the Tribunal therefore considered that there was a significant likelihood of Dr Ali repeating his actions.

21. The Tribunal considered the test set out in *Grant* and found that Dr Ali had in the past: put patients at an unwarranted risk of harm in undermining the GMC appraisal process; had brought the profession into disrepute; and had acted dishonestly. The public and the profession are entitled to be able to trust doctors to act with appropriate caution, and with honesty and integrity. The Tribunal took the view that Dr Ali's actions did not uphold the standards expected and seriously undermined the trust the public have in the medical profession.

22. Taking all matters into consideration, the Tribunal determined that a finding of impairment was necessary to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of the profession. In the Tribunal's judgment, the need to uphold proper professional standards and public confidence in the medical profession would be undermined if a finding of impairment were not made in relation to the misconduct proved in this case.

23. Accordingly, the Tribunal determined that Dr Ali's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 10/05/2021

1. Having determined that Dr Ali's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

2. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

Submissions

3. On behalf of the GMC, Mr Garside, QC, submitted the appropriate sanction in Dr Ali's case was one of erasure. He reminded the Tribunal that it had found serious departures from Good Medical Practice (2013 Edition) ('GMP') and had expressed concern about Dr Ali's insight and remediation. He acknowledged that no patient had come to harm as a result of Dr Ali's actions but reminded the Tribunal that the appraisal process acts to protect the public

who would expect doctors to be properly appraised and assessed by their regulator. He submitted that Dr Ali had not shown any recognition of the importance of the appraisal process however, he also submitted that there was no evidence that the appraisal itself was improper.

4. Mr Garside told the Tribunal that, with the absence of any exceptional circumstances in the case, it would be entirely inappropriate for the Tribunal to take no action. He submitted that conditions would not be an appropriate response as Dr Ali is currently not practising in the UK and they would not address the public interest concerns. He acknowledged that the circumstances of this case did not constitute the most serious case of dishonesty. However, he submitted that Dr Ali had covered up his dishonesty, in addition to having a deliberate and reckless disregard for the system and safeguards designed to protect members of the public and maintain high standards within the profession. He therefore submitted that erasure was the appropriate sanction in this case.

The Relevant Legal Principles

5. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own independent judgment. In reaching its decision, the Tribunal has taken account of the Sanctions Guidance (November 2020) ('the SG'). It has borne in mind that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.

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

The Tribunal's Determination on Sanction

7. The Tribunal has already given a detailed determination on facts and impairment and it has taken those matters into account during its deliberations on sanction.

8. The Tribunal considered the aggravating and mitigating factors in this case.

Aggravating Factors

9. The Tribunal considered that there were no aggravating features apart from the facts found proved in this case.

Mitigating Factors

10. The Tribunal considered the following to be mitigating factors:

- Dr Ali has apologised for his actions and has tried to give an explanation as to why the incident occurred; and
- Dr Ali is of previous good character and this is an isolated lapse of judgment.

11. In considering the mitigating and aggravating features of this case, the Tribunal had regard to Dr Ali's lack of engagement and its previous finding that Dr Ali has not produced evidence to demonstrate insight with regard to how his actions may have caused damage to the integrity of the appraisal process and the potential impact on patient safety.

12. However, the Tribunal considered this in the context of Dr Ali's current working situation and the communication issues arising from Dr Ali residing in Sudan. The Tribunal noted the GMC's submission that post had been returned from Sudan and that, during the relevant period, Dr Ali's assertions regarding the difficulties in accessing internet and electricity were factually correct. It considered that this was likely to be a significant factor in Dr Ali's ability to respond and engage with the process. The Tribunal noted that Dr Ali was accessing documents on his telephone and had been unable to open some attachments. In these circumstances, the Tribunal took into account that it had no documentary evidence of Dr Ali's insight by way of a reflective piece. However, the Tribunal was not persuaded that Dr Ali had demonstrated a persistent lack of insight given his expressions of remorse and his apology. The Tribunal considered that it had no evidence that Dr Ali would be unable to develop the required insight in the future.

No Action

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

14. The Tribunal found that there are no exceptional circumstances capable of justifying taking no action against Dr Ali's registration. The Tribunal determined that, in view of the

serious nature of the Tribunal’s findings on impairment, it would be neither sufficient, proportionate nor in the public interest to conclude this case by taking no action.

Conditions

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

16. The Tribunal was of the opinion that imposing conditions on Dr Ali’s registration would not sufficiently address the serious nature of his misconduct or the breaches of GMP it has identified. It also took the view that imposing conditions on Dr Ali’s registration would not be workable as Dr Ali has not engaged with the process so far and he is currently not practising in the UK. Furthermore, it considered that imposing a period of conditions would not be sufficient to protect the public interest or maintain proper professional standards.

Suspension

17. The Tribunal then went on to consider whether suspending Dr Ali’s registration would be appropriate and proportionate. The Tribunal has borne in mind the SG in relation to suspension including paragraphs 91 and 92, in which it states:

‘91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).’

18. The Tribunal identified the following factors as set out in paragraph 97 of the SG as relevant in Dr Ali's case, indicating suspension may be appropriate where there is:

'a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest

b...

c...

d...

e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.

f No evidence of repetition of similar behaviour since incident.

g ...'

19. The Tribunal gave careful consideration to the aggravating and mitigating factors it has identified. It was in no doubt that Dr Ali's actions were unacceptable and involved dishonesty which is always a serious matter. Dr Ali's has not demonstrated evidence of insight or that he has taken sufficient steps towards remediation. However, the Tribunal accepted that Dr Ali had shown remorse and had acknowledged that he had made a 'mistake'. Furthermore, the Tribunal was of the view that Dr Ali's dishonesty was isolated and, although it had found the risk of Dr Ali repeating his behaviour as significant due to the lack of evidence regarding insight, it had not seen any evidence that Dr Ali had repeated his behaviour since the incident.

20. The Tribunal also took into account the context of Dr Ali's actions in dishonestly informing Dr A that he had a prescribed connection to a designated body, namely Direct Medics. It accepted that Dr Ali was trying to assist a colleague in conducting and signing off her appraisal. It considered that, although Dr Ali had deliberately provided inaccurate information about his connection to Direct Medics, Dr Ali had not set out to collude with Dr A to undermine the appraisal process. Furthermore, the Tribunal considered that, although the

communication difficulties Dr Ali experienced from residing Sudan did not detract from his overall duty, they had exacerbated the situation in terms of his engagement with the process.

21. The Tribunal does not see these as mitigating features as such but it accepted that Dr Ali had not made any personal gain by allowing his details to be used on the Form. There was no evidence that the appraisal itself had not been properly conducted by Dr Ali. It reminded itself of its previous finding that Dr Ali had not seen the Form and was therefore unaware that he required a licence to practise in order to complete it. It further considered that Dr Ali's actions had not directly caused harm nor had any impact on patient safety as the Form was appropriately validated by the GMC and this issue was therefore identified. Dr Ali did not seek to cover up what he had done and he has always maintained that he gave his details to Dr A to complete the Form. For these reasons the Tribunal felt that Dr Ali's misconduct, although serious, was not fundamentally incompatible with continued registration.

22. In the circumstances, the Tribunal determined to suspend Dr Ali's registration for 12 months. In deciding on this period of time, it took into account the seriousness of his actions and the need to demonstrate clearly to Dr Ali, the profession and the public that his actions were unacceptable. This period will provide Dr Ali with an opportunity to demonstrate that he has developed the required insight into his misconduct, acknowledge the impact of his actions, and take appropriate steps to remediate. The Tribunal was satisfied that such a sanction would be sufficient to promote and maintain both public confidence in the profession, and standards and conduct for members of the profession. The Tribunal carefully balanced all of the circumstances in this case and concluded that although Dr Ali's misconduct was serious, it falls short of being fundamentally incompatible with continued registration. It considered that a period of suspension was therefore the appropriate and proportionate sanction.

23. The Tribunal considered that erasure in these circumstances would be unduly punitive. The Tribunal considered it would not be proportionate to erase Dr Ali's name in circumstances in which it would be possible for Dr Ali to demonstrate insight and remedy the misconduct should his circumstances allow.

Review Hearing

24. The Tribunal determined to direct a review of Dr Ali's case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Ali to

demonstrate how he has remediated and developed insight into the impact that his actions may have had on public confidence in the profession and the standards and conduct required of members of the profession. It therefore may assist the reviewing Tribunal if Dr Ali provides it with:

- evidence that he has reflected on the Tribunal’s findings and developed insight into his failings. This may take the form of a reflective statement;
- evidence of relevant continuing professional development activities which may take the form of online training;
- evidence that he has kept his medical knowledge and skills up to date;
- any other relevant evidence Dr Ali wishes to present to assist the Tribunal.

Determination on Immediate Order - 10/05/2021

1. Having determined to impose a period of suspension on Dr Ali’s registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Ali’s registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Garside, QC, did not make any submissions in relation to an immediate order.

The Tribunal’s Determination

3. The Tribunal had careful regard to the Sanctions Guidance (November 2020) (‘the SG’). It found the following paragraphs relevant:

“172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.”

173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession."

4. The Tribunal determined that none of the factors pointing to the need for an immediate order in paragraphs 172 or 173 of the SG apply. The Tribunal considered that it was not necessary or proportionate in the circumstances. Dr Ali does not hold a licence to practise and is not currently resident in the UK. It therefore determined that in all the circumstances an immediate order is not required in this case.

5. This means that Dr Ali's registration will be suspended 28 days from when notice of this decision is deemed to have been served upon him, unless he lodges an appeal. If Dr Ali does lodge an appeal, his registration will remain unaffected until the outcome of any appeal is known.

6. There is no interim order to revoke.

7. That concludes this case.

Confirmed

Date 10 May 2021

Mrs Emma Boothroyd, Chair

ANNEX A – 06/05/2021

Service of Notice of the Hearing and proceeding in absence

Service of Notice of the Hearing

1. Dr Ali is neither present nor represented at this hearing.

2. The Tribunal considered Mr Garside's submission, on behalf of the General Medical Council (GMC), that notification of this hearing has been properly served upon Dr Ali in accordance with Rule 40 of the General Medical Council ('GMC') ('Fitness to Practise') Rules Order of Council 2004 ('the Rules').

3. The Tribunal was provided with a copy of an email dated 4 March 2021 sent by the GMC to Dr Ali, attaching details of the Allegation against Dr Ali. The Tribunal noted that Dr Ali responded to the email on 5 March 2021, confirming receipt, thereby satisfying service requirements for the GMC's notice of the Allegation.

4. In addition, the Tribunal took account of the MPTS notice of hearing dated 17 March 2021 sent by email to Dr Ali. Dr Ali responded by return email on 19 March 2021 to confirm receipt of the notice of hearing.

5. In accordance with Rule 40, the Tribunal concluded that the notice of the hearing had been properly served upon Dr Ali. The Tribunal further noted Dr Ali's most recent email, dated 27 April 2021, which contained the first date of these proceedings, 4 May 2021, within the subject line of his response which further evidenced that Dr Ali was aware of the date of these proceedings.

Proceeding in Absence

6. Having been satisfied that the notice of the hearing has been properly served, the Tribunal went on to consider Mr Garside's submission, under Rule 31, that it should proceed with the hearing in Dr Ali's absence.

7. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest.

8. The Tribunal noted the email correspondence between Dr Ali and the GMC prior to the hearing, in particular his email, dated 5 March 2021 in which he stated:

'... unfortunately I cannot promise that I will be able to attend as we don't have good internet service every day...'

9. The Tribunal further noted Dr Ali's email, dated 15 April 2021, in which he stated:

'...so I will not be able to attend or someone to represent and your decisions will not affect me as I am no longer interested to work under gmc'

10. The Tribunal considered that it was clear from this correspondence that Dr Ali was aware of the dates of this hearing and had voluntarily absented himself from it. It noted that Dr Ali has made no request for an adjournment to enable him to attend on a later date. The

Tribunal was of the view that it could not be satisfied that an adjournment would result in Dr Ali's participation at a hearing in the future.

11. Having considered all the information before it, the Tribunal was satisfied that Dr Ali's voluntary absence and the seriousness of the issues raised in this case (including matters relating to dishonesty) meant that it was appropriate to proceed with the case in his absence. It concluded that the wider public interest in the case proceeding outweighs Dr Ali's own interests in adjourning, particularly when no useful purpose would be served by adjourning to a later date.

12. In accordance with Rule 31, the Tribunal determined to proceed in Dr Ali's absence. It will take into account the written material it has received from Dr Ali, and will test the GMC's case as is proper to ensure the fairness of these proceedings.