

Date: 12/03/2019

Medical Practitioner's name: Dr Abdelkarim MOHAMED

GMC reference number: 7341072

Primary medical qualification: MB BS 1977 University of Khartoum

Type of case **Outcome on impairment**

Review - Misconduct

Impaired

Summary of outcome

Suspension, 12 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr David Robinson
Lay Tribunal Member:	Mr Sean Ell
Medical Tribunal Member:	Dr Thivanka Wimalaratne
Tribunal Clerk:	Ms Angela Carney

Attendance and Representation:

Medical Practitioner:	Not present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Ms Harriet Tighe, Counsel

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.

Record of Determinations – Medical Practitioners Tribunal

Determination on Impairment - 12/03/2019

Background

1. Dr Mohamed qualified in 1977 in Sudan and from at least 13 June 2016 was working as a Locum Registrar at the Northampton General Hospital NHS Trust until the events on 22 June 2016 in relation to Patients A and B. In relation to Patient C, on 16 February 2016, Dr Mohamed was working as a Locum in the Maternity Unit, Altnagelvin Hospital. The Tribunal has no information relating to Dr Mohamed's career or experience prior to these alleged events or since.
2. Dr Mohamed's case was referred to a Medical Practitioners Tribunal in May 2018 (the 2018 Tribunal). Dr Mohamed was not present at that hearing and was not represented. The 2018 Tribunal found the following proved:
 3. Patient A
On 22 June 2016 during a consultation with Patient A, Dr Mohamed failed to wear an ID badge, introduce himself appropriately, explain why he wished to carry out a vaginal examination and answer Patient A's questions.
 4. Patient B
On 22 June 2016 during a consultation with Patient B, Dr Mohamed failed to wear an ID badge, introduce himself appropriately and respect Patient B's privacy. The 2018 also found proved that Dr Mohamed failed to explain his concerns, findings, diagnosis and management plan. That Tribunal also found that Dr Mohamed did not obtain informed consent, did not comply with the hand hygiene policy and performed the vaginal examination with excessive force and/or in a rough manner. Further, Dr Mohamed did not stop the examination when requested by Patient B and the midwife, and failed to apologise to Patient B after the examination.
 5. Patient C
On or around 23 February 2016 Dr Mohamed retrospectively amended Patient C's signed consent form adding the words 'Trial of forceps delivery', knowing that Patient C had not consented to an assisted delivery. The Tribunal found that Dr Mohamed failed to work in partnership with Patient C or listen to her concerns.
6. The 2018 Tribunal found that Dr Mohamed's conduct in relation to Patients A, B and C was capable of being remediated. However, it noted that Dr Mohamed had not engaged with the GMC's investigation since April 2018 and none of his emails acknowledged any failings on his part. The 2018 Tribunal was provided with no evidence that Dr Mohamed had any insight into his misconduct, had reflected on his misconduct and had made any attempt at remediation. The 2018 Tribunal found that Dr Mohamed's fitness to practise was impaired by reason of misconduct.

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7. The 2018 Tribunal imposed a suspension on Dr Mohamed's registration for a period of nine months. It clarified that at the review hearing, the onus would be on Dr Mohamed to demonstrate how he has developed insight into his misconduct and how he has remediated that misconduct. The 2018 Tribunal stated that the reviewing Tribunal may be assisted by the following:

- A reflective statement demonstrating insight into his misconduct
- Evidence of the steps he has taken to remediate his misconduct, for example (but not limited to) courses on communication, obtaining informed consent etc.
- Testimonials from professional colleagues and/or patients
- Evidence of his Continuing Professional Development
- Any other information that Dr Mohamed considers will assist.

The Outcome of Applications Made during the Impairment Stage

8. The Tribunal granted Ms Tighe's application, on behalf of the General Medical Council (the GMC), made pursuant to Rules 20 and 40 of the GMC Fitness to Practise Rules 2004, as amended ('the Rules') that the Notice of Hearing had been properly served on Dr Mohamed. The Tribunal's full decision on the application is included at Annex A.

9. The Tribunal granted Ms Tighe's application, made pursuant to Rule 31 of the Rules, to proceed in Dr Mohamed's absence. The Tribunal's full decision on the application is included at Annex B.

The Evidence

10. The Tribunal has taken into account the documentary evidence, as follows.

- Record of the Determinations dated 25 May 2018
- Letters and emails from the GMC to Dr Mohamed (dated from July 2018 to January 2019)

11. Dr Mohamed provided the following documentary evidence in relation to his Continuing Professional Development (CPD):

- Certificate of Uterine Rupture/Inversion Training, dated 25 August 2018
- Certificate of Fetal Physiology Training, dated 28 August 2018
- Certificate of Antenatal CTG Training, dated 28 August 2018
- Certificate of Cord Blood Gas Training, dated 4 September 2018
- Certificate of Basic Life Support Training, dated 22 November 2018
- Certificate of Informed Consent Training, dated 21 February 2019
- An email dated 25 February 2019 from Dr Mohamed stating that he has booked a communication course with ID Medical company on 23 March 2019

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Submissions

12. On behalf of the GMC, Ms Tighe submitted that Dr Mohamed's fitness to practise remained impaired. She reminded the Tribunal that Dr Mohamed's engagement has been extremely limited and bordering on non-existent. She reminded the Tribunal that since the hearing in May 2018 Dr Mohamed has sent only two emails. She stated that Dr Mohamed has declined to make written submissions and chosen not to attend today. She referred the Tribunal to the certificates provided by Dr Mohamed which were merely attached to an email. She stated that Dr Mohamed has not provided the Tribunal with the benefit he has gained from these courses. Ms Tighe submitted that a doctor who has been suspended for a period of nine months, and only provided evidence of six hours of CPD training, is indicative of a doctor who is not taking his suspension seriously. The lack of a reflective statement from Dr Mohamed demonstrates a continued lack of insight. She submitted the position remains unchanged.

The Relevant Legal Principles

13. The Tribunal reminded itself that there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal.

14. The Tribunal must determine whether Dr Mohamed's fitness to practise is impaired today, by reason of his misconduct. The Tribunal must take into account Dr Mohamed's misconduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Approach

15. In deciding whether Dr Mohamed's fitness to practise is impaired, the Tribunal has exercised its own judgement. It has borne in mind the statutory overarching objective which is to protect the public. This includes:

- to protect and promote the health, safety and wellbeing 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 the profession.

16. Since the 2018 hearing Dr Mohamed has demonstrated limited engagement with the GMC. The Tribunal noted that Dr Mohamed has not provided the following information that the 2018 Tribunal indicated may assist a reviewing Tribunal:

- A reflective statement demonstrating insight into his misconduct
- Testimonials from professional colleagues and/or patients
- Evidence of his Continuing Professional Development

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17. Having not provided a reflective statement the Tribunal has no evidence in relation to Dr Mohamed's insight or remediation. The Tribunal has noted the six certificates of training and considered only one to be relevant to Dr Mohamed's misconduct, namely that pertaining to informed consent. It noted Dr Mohamed stated in an email that a course had been booked in relation to communication. Save for these certificates and email, the Tribunal has limited evidence as to how Dr Mohamed has kept his skills and knowledge up to date during the period of his suspension. The Tribunal reminded itself that the onus is on Dr Mohamed to demonstrate that he is fit to practise and he has not done so.

18. The Tribunal noted, in relation to Patient A, that the 2018 Tribunal found that Dr Mohamed clearly breached the principles in paragraphs 31 and 32 of Good Medical Practice, which state:

'31. You must listen to patients, take account of their views, and respond honestly to their questions.

'32. You must give patients the information they want or need to know in a way they can understand. You should make sure that arrangements are made, wherever possible, to meet patients' language and communication needs.'

19. In relation to Patient B the 2018 Tribunal found that Dr Mohamed demonstrated a disregard for basic hand hygiene, performed Patient B's vaginal examination with excessive force and in a rough manner, clearly hurting Patient B to the extent that she had to move up the bed in an attempt to get away from Dr Mohamed. Further the 2018 Tribunal noted that Patient B's reaction was so marked that the midwife instinctively put her hand on Dr Mohamed's wrist to stop him. At that stage, Dr Mohamed failed to stop despite requests from both Patient B and the midwife. Further, Dr Mohamed failed to apologise to Patient B for hurting her, when it was plainly apparent that he had. The 2018 Tribunal considered that Dr Mohamed's actions in relation to Patient B amounted to particularly serious misconduct.

20. In relation to Patient C the 2018 Tribunal considered Dr Mohamed demonstrated a disregard for the principles in Good Medical Practice failing to work in partnership with Patient C and failing to listen or respond to her concerns and preferences. Further, Dr Mohamed failed to respect Patient C's right to reach decisions with him about her treatment and care.

21. The Tribunal was mindful that Dr Mohamed's misconduct was serious and whilst his misconduct may be remediable, he has produced no evidence that he has developed any insight, fully reflected on the gravity of his misconduct or has sufficiently attempted to remediate. The Tribunal bore in mind that Dr Mohamed has demonstrated limited engagement with the GMC and this Tribunal. Further, the Tribunal was also concerned he has provided limited evidence of his CPD or how he has kept his skills and knowledge up to date. It noted that the certificates Dr

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Mohamed provided contain no details of what the courses entailed, no evidence of any reflection or how he has benefitted from them and their relevance to his misconduct.

22. Accordingly, the Tribunal determined that there remains a risk of repetition and a risk of harm to patients. In these circumstances the Tribunal was satisfied that public confidence and professional standards would be undermined were no finding of impairment to be made at this time.

23. In the light of the above, the Tribunal has concluded that Dr Mohamed's fitness to practise remains impaired by reason of his misconduct.

Determination on Sanction - 12/03/2019

24. Having determined that Dr Mohamed'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.

Submissions

25. On behalf of the GMC, Ms Tighe submitted that the appropriate sanction in this case is continued suspension in order for Dr Mohamed to demonstrate that he has gained insight and to remediate his misconduct. She reminded this Tribunal that 2018 Tribunal found that Dr Mohamed had breached a number of the principles in Good Medical Practice (the GMP).

The Tribunal's Approach

26. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken account of the Sanctions Guidance (February 2018) (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 any sanction may have a punitive effect.

27. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Mohamed'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.

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

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Mitigating and Aggravating Factors

29. The Tribunal noted that Dr Mohamed has provided limited evidence of mitigation.

30. The Tribunal considered the following to be aggravating factors:

- Dr Mohamed's persistent lack of insight
- Dr Mohamed's limited remediation
- Dr Mohamed's limited engagement with the regulatory process

No Action

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

32. In the Tribunal's judgement there are no exceptional circumstances that would justify taking no action against Dr Mohamed's registration. The Tribunal determined that in view of its findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action. It would not maintain public confidence in the profession in all the circumstances of this case.

Conditions

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

34. The Tribunal noted that Dr Mohamed has demonstrated limited insight into his misconduct and that there remains a risk of repetition. The Tribunal also noted Dr Mohamed's extremely limited engagement with the GMC and these proceedings. The Tribunal determined that a period of conditional registration would not adequately reflect Dr Mohamed's misconduct. Further, the Tribunal could not be satisfied that, given Dr Mohamed's limited engagement, he would respond positively or comply with conditional registration. The Tribunal determined that, in these circumstances, conditions could not be devised that would be appropriate, proportionate, workable or would protect the public interest and maintain public confidence in the medical profession.

35. The Tribunal has, therefore, determined that it would not be sufficient to direct the imposition of conditions on Dr Mohamed's registration.

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Suspension

36. The Tribunal then went on to consider whether suspending Dr Mohamed's registration would be appropriate and proportionate. The Tribunal has borne in mind that suspension has a punitive effect, although this is not its intention.

37. The Tribunal noted Dr Mohamed has demonstrated a persistent lack of insight and has taken limited steps to remediate.

38. The Tribunal has already determined that the risk of repetition remains. The Tribunal noted that the Dr Mohamed's misconduct, in relation to three patients, was a serious departure from GMP.

39. The Tribunal considered that a period of suspension would protect patients, serve to promote and maintain public confidence in the medical profession, and promote and maintain proper professional standards and conduct for the members of the profession.

40. In the circumstances the Tribunal determined to suspend Dr Mohamed's registration for a period of 12 months. The Tribunal considered that such a suspension would send a clear signal to Dr Mohamed, the profession and public about what is regarded as behaviour unbecoming a registered doctor, would protect patients and would serve to promote and maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for the members of the profession.

41. Given that Dr Mohamed has already been suspended for a period of nine months and has demonstrated persistent lack of insight and provided limited evidence of remediation, the Tribunal also considered that a 12 month suspension would allow Dr Mohamed sufficient time to further reflect on his misconduct, demonstrate full insight and remediate that misconduct.

Erasure

42. The Tribunal was of the opinion that Dr Mohamed's misconduct, whilst serious, falls short of being fundamentally incompatible with continued registration and therefore erasure would not be proportionate.

Review

43. The Tribunal determined to direct a review of Dr Mohamed'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 Mohamed to demonstrate how he has developed insight into his

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misconduct and how he has remediated that misconduct. It therefore may assist the reviewing Tribunal if Dr Mohamed provides:

- A reflective statement demonstrating insight into his misconduct
- Evidence he has remediated his misconduct
- Testimonials from professional colleagues and/or patients
- Evidence of his CPD and reflection on learning
- Any other information that Dr Mohamed considers will assist.

44. The effect of the foregoing direction is that Dr Mohamed's current order of suspension will be extended for 12 months. Dr Mohamed has 28 days from the date on which written notice of this decision is deemed to have been served upon him to appeal the decision. If Dr Mohamed decides to appeal against this decision the suspension imposed on his registration by the 2018 Tribunal will remain in force until that appeal is determined.

45. That concludes this hearing.

Confirmed

Date 12 March 2019

Mr David Robinson, Chair

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ANNEX A – 12/03/2019

Application on Service

1. Dr Mohamed is neither present nor represented at these proceedings. The Tribunal has noted Dr Mohamed's registered address and validated email address. The Tribunal has noted the GMC's letter dated 29 January 2019 which was sent to Dr Mohamed's registered address and also to his validated email address. It has also noted the MPTS Notice of Hearing letter dated 31 January 2019 which was sent to Dr Mohamed's registered address. It has also seen the signed Royal Mail Federal Express tracking record for both letters.

2. In the circumstances, the Tribunal is satisfied that notice of this hearing has been properly served in accordance with Rules 20 and 40 of the GMC (Fitness to Practise) Rules 2004.

ANNEX B – 12/03/2019

Application to Proceed in Absence

1. The Tribunal has noted Dr Mohamed's email dated 25 February 2019. The Tribunal has also noted the MPT attendance form signed and returned by Dr Mohamed, on which he has indicated that he will not be present or represented today.

2. The Tribunal has noted that Dr Mohamed has not requested a postponement of the hearing in his email. It has also noted that Dr Mohamed has not provided the Tribunal with written submissions. The Tribunal is satisfied that Dr Mohamed is aware of the hearing and has decided not to attend. The Tribunal has borne in mind that, were it to adjourn today's hearing, there is no indication that Dr Mohamed would be more likely to attend a future hearing. Given that Dr Mohamed is aware of the hearing and has stated that he will not be attending the Tribunal has determined that the public interest would be best served by proceeding with the hearing in the absence of Dr Mohamed today in accordance with Rule 31 of the Rules, and that no injustice would arise to any party through its doing so.