

PUBLIC RECORD

Dates: 21/12/2023 - 22/12/2023

Medical Practitioner's name: Dr Adil ELAMIN

GMC reference number: 4217963

Primary medical qualification: MB BS 1995 University of London

Type of case

Restoration following
disciplinary erasure

Summary of outcome

Restoration application granted. Restore to Medical Register.

Tribunal:

Legally Qualified Chair	Miss Rachel Birks
Lay Tribunal Member:	Mr Tim Skelton
Medical Tribunal Member:	Dr William Seligman

Tribunal Clerk:	Mr Matt O'Reilly
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Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Ms Kathryn Johnson, Counsel
GMC Representative:	Ms Colette Renton, Counsel

Attendance of Press / Public

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

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 Restoration - 22/12/2023

1. The Tribunal has convened to consider Dr Elamin's application for his name to be restored to the Medical Register following his erasure for disciplinary reasons in November 2011 by a fitness to practise Tribunal ('the 2011 Panel').
2. The Tribunal has considered the application in accordance with Section 41 of the Medical Act 1983, as amended ('the Act') and Rule 24 of the GMC (Fitness to Practise) Rules 2004, as amended ('the Rules').
3. This is Dr Elamin's first hearing in relation to an application to be restored to the Medical Register.

Background

4. The matters which led to Dr Elamin's erasure from the Medical Register can be summarised as: from 6 to 30 October 2008, Dr Elamin was employed as a locum consultant gastroenterologist for Mid-Staffordshire Hospital NHS Trust ('the Trust') through Athona Healthcare Recruitment Agency ('the Agency'). It was alleged that Dr Elamin submitted two-time sheets on or about 17 October 2008 indicating that he had worked for the Trust for 123 hours between 6 and 12 October 2008, and 168 hours between 13 and 19 October 2008 respectively. It was further alleged that on or about 28 October 2008, Dr Elamin submitted two timesheets indicating he had worked for the Trust for 123 hours between 20 and 26 October 2008, and 81 hours between 27 and 30 October 2008 respectively. This was a period in which Dr Elamin was employed to cover the planned sick leave of another gastroenterologist consultant. It was alleged that the number of hours claimed was not accurate and the matter was reported to the GMC. In the 2011 Panel Dr Elamin admitted these allegations and that these claims were misleading. He denied dishonesty.
5. The 2011 Panel found that Dr Elamin had worked for 319 hours out of a total 495 hours which he had claimed payment for and that the Agency suffered a loss of £11,440, a loss suffered by them for about a year. The 2011 Panel found Dr Elamin's actions to have been dishonest.
6. The 2011 Panel found that Dr Elamin's actions amounted to misconduct. When considering his fitness to practise, the 2011 Panel was of the view that:

“...this dishonesty is not remediable. There has been no expression of remorse or demonstration of insight.

The Panel has heard of the tragic circumstances that occurred at the time leading up to these events. However they did not impinge on your clinical practice.

It has taken account of the fact that these events occurred three years ago. Your dishonesty was not isolated. It was persistent and premeditated. Your dishonesty in falsifying these timesheets and submitting them to your recruitment agency breached one of the fundamental tenets of the medical profession. Probity is vital in the medical profession. Honesty goes to the heart of medical professionalism. Your conduct involved serious departures from the standards of “Good Medical Practice” in this regard. The public and the medical profession are entitled to rely on the integrity of doctors.

In reaching a decision on impairment the Panel is mindful of the need to maintain confidence in the profession as well as declaring and upholding proper standards of conduct and behaviour.”

7. The 2011 Panel determined that Dr Elamin’s fitness to practise was impaired by reason of his misconduct.

8. In determining sanction, the 2011 Panel stated:

“...The Panel considers that your dishonesty was very serious. Your conduct was persistent and premeditated and for substantial financial gain at a time when you were to take up a new post and responsibilities in the Sudan. The Panel has found your evidence to have been prevaricating, evasive and vague. You have not expressed remorse nor demonstrated insight. The Panel considers that your conduct is fundamentally incompatible with continuing to practise as a doctor. It determines in all the circumstance that a period of suspension would be insufficient to maintain public confidence in the medical profession and ensure and declare the upholding of proper standards of behaviour. Such a sanction would not mark the seriousness of the conduct nor send a message to the public and the profession that such dishonesty is not acceptable and will not be tolerated.”

9. The 2011 Panel determined to erase Dr Elamin’s name from the Medical Register.

10. Before his erasure in 2011 Dr Elamin had moved to Sudan and commenced work as a Consultant Physician and Gastroenterologist at the Digestive Diseases Centre (latterly part of Elrazi University, Sudan). He continued in this role following his erasure. In more recent times he was also Associate Professor of Medicine at the Elrazi University, Sudan, as well as Consultant Physician and Gastroenterologist, until the outbreak of civil war in April 2023.

The Current Restoration Hearing

The Evidence

11. The Tribunal has taken into account all the evidence that it has received, both oral and documentary.

Documentary Evidence

12. The parties provided an agreed bundle of the following documentary evidence which included, but was not limited to:

- a. The determination from the 2011 Panel;
- b. Transcripts from the 2011 hearing;
- c. Dr Elamin's application for restoration dated 13 June 2023;
- d. Unverified Certificates of Good Standing from the Sudan Medical Council dated 28 December 2011 and 17 August 2023;
- e. Sworn affidavit dated 7 June 2023 confirming no regulatory or probity concerns in Sudan,
- f. Personal Statement – Restoration Hearing, 4 December 2023;
- g. Certificates of Continuing Professional Development ('CPD'), various;
- h. Job Description of his role as a Consultant Gastroenterologist and Associate Professor of Medicine;
- i. Journal, dated March/April 2012;
- j. Testimonials and Reflections/Reports, various;
- k. Whiston Clinical Attachment Diary, dated 21 November 2023 – 15 December 2023.

Summary of Dr Elamin's oral evidence

13. Dr Elamin stated in his oral evidence that his view was that the 2011 Panel had no choice other than to erase him, that he appreciated their reassertion of his good character, clinical competence, and acknowledgement that stress can lead to unusual behaviour. He said, however, that he was very regretful of his evasiveness during that hearing and that he had a duty to put it right today. He said that he wanted to start his evidence by apologising fully, unreservedly, and sincerely to the general public whose confidence he had betrayed, the profession which he brought into disrepute, and to the GMC. He said that he appreciated the task of the GMC today and that they were being neutral in relation to his application. He stated that he believed that he had previously compromised the role of the GMC in maintaining standards and public trust, by his actions. Dr Elamin said that providing excuses would be avoiding accepting responsibility and culpability for his actions.

14. Dr Elamin explained the reason for making an application for restoration at this time. He provided a background to the circumstances in which he, XXX had to leave Sudan when civil war broke out in April 2023. He said that he and his family were evacuated to the UK on 28 April 2023 and that he was given no alternative.

15. Dr Elamin said that he considered making an application for restoration in 2016 but then perceived it to be a futile exercise given the very low success rates for restoration applications and what he would have to put himself through as part of the process. He said that he is now between a rock and a hard place, and that he has no choice as he has to provide for his family. Dr Elamin said that he always felt that he was part of the establishment here and that he respected his colleagues and the NHS.

16. Dr Elamin said that were his name to be restored to the Medical Register he would hope to work as a consultant physician and gastroenterologist. He said however he would not be assumptive and pre-empt the Tribunal's decision. Ms Johnson asked Dr Elamin about how he felt having denied before the 2011 Panel that his was dishonest. He said that he was very sorry, that it was not good and that he felt ashamed of it. He said that he hoped this Tribunal would accept his apology on behalf of the 2011 Panel.

17. XXX

18. Dr Elamin said that he had not been frank and open with the 2011 Panel about his dishonesty because he had not fully come to terms with himself at that point and that he did not have the courage or conviction to be frank and open then. He stated that following his erasure he went to Sudan and informed the Sudan Medical Council ('SMC') that his name had been erased from the GMC's Medical Register. He said the SMC put in place certain recommendations and goals, which included a requirement to undergo courses in relation to ethics, probity, insight and standards, and to engage in reflective sessions. Dr Elamin said that he did not feel great about these requirements but that he knew it was necessary. He said that he informed the SMC about the outcome of the hearing before the decision of the 2011 Panel was published, which was about a month from the hearing having taken place. He said his plan then was to put them in the picture straight away and try and use every support that they were able to give him. He said that the SMC and his supervisor put in place a roadmap providing a local framework for remediation.

19. Dr Elamin said that in understanding where he went wrong and in undertaking the remediation he found it refreshing going over the principles of ethics. He said that he saw the relevance of the principles of ethics to actual patient care and where he went wrong. He said that he now understands that if a patient cannot trust their doctor, for whatever reason – whether related to their personal or professional conduct - they would probably not take the doctor's advice seriously and that breaking free from ethics is therefore dangerous to patients. He explained how he understood the role of the regulator and its duty to protect the public and the profession and standards.

20. Dr Elamin said that the change in him was gradual but that the shock of leaving the GMC was quite substantial, and a major setback. He stated that what really brought matters home was the XXX, shortly after the conclusion of the 2011 Panel. He also told the Tribunal about learning that a friend had previously lost his wife and five children in an air crash. He said that this helped him put in perspective his circumstances and XXX. He said that this had a profound impact on the way he was thinking. He said that it was a complex time but that he

started to change as a result of a number of events which made him reflect and reassess his position.

21. Dr Elamin explained the work he did at the Digestive Diseases Centre in his capacity as a gastroenterologist. He said that whilst working as a clinician he was also working to develop the unit. He said that it was a government institution being run badly and that the university was paying large fees to use its facilities for teaching. He said that there was a proposition from the University to take over the Centre. Dr Elamin said that he supervised the process between the Ministry of Health and the University in taking over the Centre. He said that his role was to work to build the clinical, service and managerial aspects of it to get it to a position where it was acceptable to be taken over by the university and also profitable for the government. He said that at this time he was teaching students, and that he was employed by the University initially as a lecturer. He was now an Associate Professor. Dr Elamin said that he was also involved with the University in setting up their own teaching hospital and was mainly teaching registrars in gastroenterology in aspects of Therapeutic endoscopy.

22. Dr Elamin was asked, if he was successful in his restoration application, what would he do as far as his teaching role was concerned. He said that it would be presumptive of him to anticipate the outcome of the hearing, so he was not sure what was going to happen. He said that if he were not successful, he would have to go back to Sudan because that was the only avenue open to him to support his family as he does not really have any other option.

23. Dr Elamin said that he felt it was important to do a clinical attachment at the Whiston Hospital as if he was ever going to get back into practising in the UK, he needed to explore how out of date he was. He said that he was not concerned about his clinical competence, rather that he knew he was lacking in terms of developments in the NHS, and in hospital practice over the last 10 years. He stated that a lot has happened and that he needed to be sure that he was aware of how much has changed. He said that he needed to know whether he would cope with this change.

24. Dr Elamin was asked about the pitfalls he would have to avoid were he back working within an everyday NHS environment. Dr Elamin talked about changes in governance and conflict of interest; and that things had moved on in communication since he last worked in the NHS.

25. Looking back at 2008, Dr Elamin said that he would now do everything differently. He said that he made every mistake possible, XXX. He said that he had previously found comfort in his job which was a very protective environment and that it was a mistake to leave. He said it was a major mistake to isolate himself and not surround himself with friends and colleagues. Dr Elamin said that the 2008 financial crash was also a factor and that looking back he should have made different financial arrangements. He said that he should have recognised his feelings of worthlessness, hopelessness and helplessness XXX and dealt better with his anger. He said that all these negative emotions impacted on his state of mind and that he should have dealt with them better and not allowed them to cloud his judgment.

26. Dr Elamin said that he has learned his lesson and that he has not had any conduct issues since 2008, a period of 16 years, and he hopes that continues. He said that if he were restored to the Medical Register, he would likely be seeking a permanent post and not a locum post as he needs to be close to his family and to be able to provide for them. Dr Elamin said that if he were to be vulnerable again the key would be to recognise it straight away, and that he has "been down this road before". He said that he knows what the consequences are and how many people he would be harming, and that to behave in such a way again would be an act of lunacy. He said that there had been no concerns raised about his honesty or probity whilst he was in Sudan. He said that he had not been tested in a similar circumstance as to the one which led to his erasure, but that he did have to deal with financial issues and that he was trusted to act appropriately, making transfers between the University and the Government.

27. Dr Elamin was asked how the Tribunal could be reassured that even if he were in a difficult financial position that he would not do something that was dishonest. Dr Elamin said that whilst he is currently not working, he is relying on his family and friends for support. He said that he gets a little money from royalties for an advisory role he provides to pharmaceutical companies. Dr Elamin said that he has a right to get money from government support, but that he has not resorted to that as he does not think that is right in principle. He said that he thinks there are fair ways of getting money and that there are financial institutions that would lend him money when he is working.

28. Dr Elamin was asked about any similarities between his clinical work in Sudan and a potential role in the UK. Dr Elamin reported that the same pathologies, investigations and treatments exist in both countries and so while he felt he may be 'behind' in terms of non-clinical changes in the NHS since his last time working in the UK, he did not feel his clinical role would be different. If anything, he reported that the intensity of the clinical work in the NHS is less than what he experienced in Sudan, and that patients in Sudan present late with more complex disease and he has fewer colleagues with whom to discuss complex cases. As a consequence, Dr Elamin said that he felt his clinical skills had improved while he had been working in Sudan.

29. Dr Elamin told the Tribunal that the three things that transformed his life were his XXX, his XXX and charity work. In terms of charity work, Dr Elamin said that when he went to Sudan and looked around, he started to learn from everyone around him. He said that one of his problems was that he felt selfish and sad. He said that he recognised he was the one with the least amount of problems but everyone else with far greater issues to deal were the ones smiling. Dr Elamin said that he was in a position of excess but these people were happy even though not everyone in Sudan has access to clean water, sanitation, let alone medical care. He therefore asked to get involved in a charity.

30. Dr Elamin said that he recognised that the GMC has a major role to protect the profession, public confidence, and to give a framework for all parties concerned. He said that clinical excellence is no guarantee of patient trust in the profession. When asked about looking back on the transcript of the 2011 Panel, Dr Elamin said that he was very sorry about the whole process, that it was a bad period of his life and that when he looks back at his

evidence it makes him “cringe”. He said that this was certainly his single most regrettable error and that he is extremely ashamed of himself.

Submissions on behalf of the GMC

31. Ms Renton submitted that the GMC is neutral on Dr Elamin’s application for restoration but that it is ultimately a decision for the Tribunal using the broad discretion identified in the *Guidance for medical practitioners tribunals on restoration following disciplinary erasure* (‘the Guidance’) She reminded the Tribunal that the onus is on Dr Elamin to satisfy the Tribunal that he is fit to return to unrestricted practice.

Ms Renton reminded the Tribunal of the 2011 Panel’s decision. She said that in 2011 the question of dishonesty was a matter that Dr Elamin had contested and he was found not to have shown insight into his dishonesty.

32. Ms Renton said that the 2011 Panel did not consider there to be any patient safety concerns, but that the concerns were around maintaining public confidence and also maintaining proper professional standards.

33. Ms Renton said that the Guidance suggests that the doctor's current level of insight would be a significant factor for this Tribunal in assessing the risk of repetition. She reminded the Tribunal of Dr Elamin’s oral evidence and said that Dr Elamin contended that he has gained significant insight out of a lengthy period of reflection. She said that Dr Elamin has said he has looked back at his own personal failings, the impact on others, and that he does appear to be remorseful and apologetic. She said that in terms of the clinical attachment that Dr Elamin has undertaken, it has unfortunately not been possible to verify his reflections with the person who was supervising him but that he has given his view about what he feels he took away from it. Ms Renton said that Dr Elamin has continued to work in what he would say is a relevant position in Sudan, which crosses over to important skills to use if he was to work in this country.

34. Ms Renton noted that in terms of remediation, dishonesty is difficult to remediate, and urged a cautious approach. In terms of the overarching objective, she submitted that the first limb which is in relation to protecting and promoting and maintaining the health, safety and wellbeing of the public, was not an initial concern, but noted that Dr Elamin has reflected to say that there could be a risk that dishonesty could create a lack of trust between the public and a doctor.

35. In relation to promoting and maintaining public confidence in the profession. Ms Renton submitted that the Guidance sets out that, patients must be able to trust doctors and doctors are expected to act with honesty and integrity that justifies that trust. She said that the Tribunal must be cautious around the question of repetition. Ms Renton submitted that the doctor's plans are currently unknown should he be restored, he does not think he will work in a locum position again, but he does not quite know where he is going to fit.

36. Ms Renton submitted that another factor to consider arises out of a Dr Elamin’s financial need to provide for his family and that it is important that the doctor’s need to

provide for his family does not outweigh his duties as a doctor. She said that the Tribunal must consider whether a doctor's past behaviour is so serious that it remains capable of undermining the trust that the public places in doctors. She invited the Tribunal to consider whether an ordinary, well-informed member of the public who is aware of all the relevant facts would be concerned to learn the doctor had been allowed to return to practice.

37. In relation to limb three of the overarching objective, to promote and maintain professional standards and conduct of the profession, Ms Renton said that it is a question for the Tribunal as to whether the period which the doctor has been erased is sufficient to meet the overarching objective.

Submissions on behalf of Dr Elamin

38. Ms Johnson submitted that Dr Elamin's misconduct in 2008 was serious, that he has fully accepted that, and that it is understandable why the 2011 Panel felt at that time there was no alternative but to erase him as his dishonest misconduct was incompatible with continued registration. She said that the 2011 Panel came to the conclusion that the erasure was necessary to maintain public confidence and also to maintain proper standards for members of the profession. She said however that there were no concerns in relation to patient safety and that it was accepted that Dr Elamin was a good doctor. She said that he has continued to be a good doctor, if not an excellent doctor, as demonstrated by the numerous testimonials which show that he is held in very high regard by those who have worked closely with him in the intervening years in Sudan. Ms Johnson referred the Tribunal in detail to the Testimonials.

39. Ms Johnson submitted that this is Dr Elamin's first application for restoration, some 12 years since he was erased. She said that he had wanted to apply for restoration earlier, notwithstanding his successful career in Sudan, but that he accepts in his personal statement that he was cowardly in not making the application sooner. She said this was because the doctor was afraid to face up to what he had done but that having registration with the GMC is of considerable importance to him.

40. Ms Johnson referred the Tribunal to the relevant legal principles in the case of *Nooh v GMC [2017] EWHC 2948 (Admin)*. She said that what is significant from *Nooh* is that it demonstrates that this Tribunal's task is different to that of the 2011 Panel, as it was not necessary for the 2011 Panel to consider where on the spectrum of seriousness the case fell. She said that *Nooh* makes it clear that some cases are so serious that a doctor could never be restored and, that there are other cases at the lesser end on the spectrum of seriousness. She said that this is such a case and making that decision would not be going behind the decision of the 2011 Panel. She stated that it has to be accepted that the 2011 Panel found that Dr Elamin's misconduct was persistent and repeated. She said however, that this was against the background of an unblemished career and there had been no repetition at the time of the 2011 Panel or since. She submitted that whilst the 2011 Panel found that the misconduct was for a substantial financial gain, it is relevant to the overall seriousness that Dr Elamin did repay the money in full and so there was no actual loss at the end of the day to

the public purse. She reminded the Tribunal that the 2011 Panel accepted that Dr Elamin was under significant stress from personal tragedy at the time.

41. Ms Johnson invited the Tribunal to consider Dr Elamin's evidence XXX. Ms Johnson said however, that it was not the case that Dr Elamin was now seeking to make an excuse or not take responsibility for his actions as he has been at great pains to stress to the Tribunal.

42. Ms Johnson reminded the Tribunal that to restore a doctor's registration, it must be satisfied that the risk of repetition was unlikely, as set out in the case of *Nooh*. She also invited the Tribunal to consider the passage of time since his erasure and the restoration application. Ms Johnson submitted that there is no risk to patient safety in this case and that the evidence and testimonials demonstrate that Dr Elamin is an excellent doctor with very high standards of care and skills. She submitted that the original misconduct goes back to 2008 and there has been no repetition. She invited the Tribunal to find that there is no risk of repetition.

43. Ms Johnson submitted that Dr Elamin has fully accepted that he was not honest with the 2011 Panel and accepted that he was not forthright. She invited the Tribunal to consider that this demonstrates his acceptance of what he did and underlines what he has learned since, and that he has gained full insight as a result of the remediation that he has carried out. She said the Tribunal can accept what Dr Elamin has said in his evidence as being genuine because it has the evidence that the journey of remediation began back in 2012. She said it was not the case that the doctor simply returned to Sudan ignoring the MPTS' decision of erasure, rather he was open with his employers and the matter that was referred to the SMC who deemed it should be dealt with at a local level. Ms Johnson said that the Tribunal have clear examples of the remediation carried out and the full reflection which demonstrates that this is not a doctor simply giving lip service to what he had to do.

44. Ms Johnson referred the Tribunal to the Certificates of Good Standing from the Sudan Medical Council, and the understandable difficulties in verifying them, given the ongoing conflict in Sudan. She also referred the Tribunal to the sworn affidavit to confirm that there have been no other proceedings brought against Dr Elamin during his time in Sudan. She submitted that Dr Elamin's evidence demonstrated that he is very much up to date with his medical knowledge and skills, that he would be able to immediately take up a post should he be restored to the register, and that patients will be at safe.

45. In considering whether restoration meets the overarching objective, Ms Johnson said that it is a balancing exercise in relation to the three limbs of the overarching objective. She re-iterated that the Tribunal could conclude that there is no risk to patient safety.

46. In terms of public confidence, Ms Johnson submitted that an ordinary well-informed member of the public would have concluded that the doctor did deserve to be erased in 2011. She submitted however, the picture is different in 2023 and the public would conclude from the evidence that; the doctor had learned from his misconduct; has apologised; accepted full responsibility; that there is no risk of repetition; and therefore it was appropriate for the doctor to return to the Medical Register. She said that the public would

say Dr Elamin’s skills are needed in the NHS and, as the Tribunal knows, this is a doctor who believes wholeheartedly in the NHS and who was proud to be a doctor in the NHS before he was erased. In relation to maintaining proper professional standards, Ms Johnson submitted that fellow professionals would be of the same view.

The Tribunal’s Approach

47. Throughout its consideration of Dr Elamin’s application for restoration, the Tribunal was guided by the approach set out in ‘the Guidance’.

48. It reminded itself that the onus is on Dr Elamin to satisfy the Tribunal that he is fit to return to unrestricted practice. The Tribunal should not seek to go behind the findings on facts, impairment and sanction made by the 2011 Panel.

49. The Tribunal had regard to the guidance in the case of *GMC v Chandra [2018] EWCA Civ 1898*, and the test to be applied in considering the restoration application:

‘Having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective.’ (as set out below:)

- To protect, promote and maintain the health, safety, and well-being of the public;
- To promote and maintain public confidence in the profession; and
- To promote and maintain proper professional standards and conduct for members of the profession.

50. The Tribunal reminded itself that, in making its decision, it should consider the following factors:

- a. the circumstances that led to disciplinary erasure;
- b. whether Dr Elamin has demonstrated insight into the matters that led to his erasure, taken responsibility for his actions, and actively addressed the findings about his behaviour and skills including consideration of:
 - insight and remorse;
 - remediation and risk of repetition;
 - whether findings about the doctor’s behaviour have been remedied;
 - likelihood of repetition of the previous findings about the doctor’s behaviour;
- c. steps Dr Elamin has taken to keep his skills and knowledge up to date; and
- d. the lapse of time since erasure.

51. The Tribunal reminded itself that having considered the different factors above, it must make findings in relation to whether the doctor is fit to practise. The Tribunal should

then step back and balance its findings against whether restoration will meet the overarching objective. This balancing exercise will involve careful consideration of each of the elements.

52. The Tribunal took account of all the evidence before it, both oral and documentary. It has also considered the submissions made by Ms Renton and Ms Johnson.

The Tribunal's Decision

The circumstances which led to the doctor's erasure

53. The Tribunal had careful regard to the determinations and findings of the 2011 Panel throughout its deliberations and the background to the case as set out in detail above.

54. The 2011 Panel had found:

"The Panel is of the view that this dishonesty is not remediable. There has been no expression of remorse or demonstration of insight.

The Panel has heard of the tragic circumstances that occurred at the time leading up to these events. However they did not impinge on your clinical practice.

It has taken account of the fact that these events occurred three years ago.

Your dishonesty was not isolated. It was persistent and premeditated. Your dishonesty in falsifying these timesheets and submitting them to your recruitment agency breached one of the fundamental tenets of the medical profession. Probity is vital in the medical profession. Honesty goes to the heart of medical professionalism. Your conduct involved serious departures from the standards of "Good Medical Practice" in this regard.

The public and the medical profession are entitled to rely on the integrity of doctors."

55. In determining the appropriate sanction, the 2011 Panel commented:

"The Panel has taken account of the mitigation in this case and your personal circumstances leading up to the period in question. It has heard that you are an excellent doctor. It has taken account of the excellent testimonials submitted on your behalf and the fact that you are currently a senior doctor practising in the Sudan where you are very well thought of. It notes that the dishonesty took place three years ago and that there has been no evidence of any such behaviour since that time. The Panel has taken account of the fact that you have returned to this country to face these proceedings.

However, these factors do not excuse your behaviour in dishonestly falsifying the timesheets. The Panel considers that your dishonesty was very serious. Your conduct was persistent and premeditated and for substantial financial gain at a time when you were to take up a new post and responsibilities in the Sudan. The Panel has found your evidence to have been prevaricating, evasive and vague. You have not expressed remorse nor demonstrated insight. The Panel considers that your conduct is fundamentally incompatible with continuing to practise as a doctor. It determines in all the circumstance that a period of suspension would be insufficient to maintain public confidence in the medical profession and ensure and declare the upholding of proper standards of behaviour. Such a sanction would not mark the seriousness of the conduct nor send a message to the public and the profession that such dishonesty is not acceptable and will not be tolerated.

The Panel considers that dishonesty is a very serious matter because it undermines the trust that the public places in the profession...”

56. This Tribunal went on to consider whether Dr Elamin has now addressed the concerns raised by the 2011 Panel.

Insight and Remorse

57. The Tribunal had regard to paragraph B10 of the Guidance:

“Insight and remorse

B10 Factors that can be relevant to a doctor demonstrating genuine insight include, but are not limited to, evidence they have:

- a considered the concern, understood what went wrong and accepted they should have acted differently*
- b demonstrated that they fully understand the impact or potential impact of their performance or conduct, for example by showing remorse...*
- c demonstrated empathy for any individual involved, for example by apologising fully...*
- d taken steps to remediate and to identify how they will act differently in the future to avoid similar issues arising...”*

58. The Tribunal carefully considered the oral and written evidence provided by Dr Elamin. The Tribunal attached weight to the fact that in his oral evidence Dr Elamin demonstrated insight and understanding as to why things went wrong, the reasons behind them and how he should have acted differently. It had before it his reflections from 2012 when he began his journey of remediation and the oral evidence as has already been set out in which it found Dr Elamin to have been sincere and which it accepted. He told the Tribunal

how he deeply regretted his actions, how he felt ashamed and that reading the transcript of the 2011 Panel made him cringe. In his oral evidence he explained how he would have done everything differently with hindsight, that he should not have left his previous job and should have sought support from the many friends and colleagues he had.

59. XXX

60. The Tribunal considered there to be strong evidence that Dr Elamin really does understand what went wrong. In his oral evidence he also expressed how his misconduct could have an impact on a patient's trust in doctors so that they may not accept a doctor's opinion, causing patient harm. The Tribunal noted that patient harm is not a concern in this case, nor has it been suggested by the GMC or the 2011 Panel. It considered however, that this demonstrated the doctor's level of understanding and insight into how deeply he has reflected on his misconduct on how it could affect the profession and the public.

61. The Tribunal noted that Dr Elamin has undertaken roles in which he has financial responsibilities both at the University and the Sudan Lawn Tennis Association without any concern. Dr Elamin said in evidence that he has never completed a timesheet since the events in 2008 and has not worked as a locum since that time. He said that he does not intend to work as a locum again, should he be restored, although it remained a possibility.

62. The Tribunal had regard to paragraph of B12 of the Guidance:

“B12 Expressing remorse involves the doctor taking responsibility and exhibiting regret for their actions. This could include evidence that the doctor has:

a been open and honest about and admitted their wrongdoing

b apologised fully

c undertaken appropriate remediation.”

63. The Tribunal found Dr Elamin to have been sincere, frank, open and humble in his oral evidence. It was satisfied that B12 was fully engaged in this case.

64. While the 2011 Panel found that he lacked insight, his journey into developing insight began soon after the Tribunal when he reported his GMC erasure to the SMC. There followed a period of remediation and reflection from which he started to develop insight. This journey continued during his clinical practice in Sudan and has been reinforced by events in his personal and professional life that the Tribunal believes have helped him to put his previous misconduct and behaviour into a wider context. His insight has developed further through recent CPD, reflections and clinical attachments in the run-up to this Tribunal. The Tribunal was of the view, in light of all of the above, that Dr Elamin had demonstrated full insight into his misconduct.

Remediation

65. When considering Dr Elamin’s remediation, the Tribunal had regard to paragraph B15 of the Guidance, which states:

“B15 Remediation can take several forms, including, but not limited to:

- a participating in training, supervision, coaching and/or mentoring relevant to the concerns raised*
- b attending courses relevant to the concerns raised, for example anger management, maintaining boundaries, ethics or English language courses*
- c evidence that shows what a doctor has learnt following the events that led to the concerns being raised, and how they have applied this learning in their practice (where applicable)*
- d evidence of good practice in a similar environment to where the concerns arose.”*

66. In assessing whether matters have been remediated, the Tribunal bore in mind paragraph B18 of the Guidance, which stated:

“B18. It can be more difficult to demonstrate sufficient remediation in cases involving serious behaviour such as dishonesty.....”

67. The Tribunal noted that Dr Elamin’s dishonesty in 2008 was serious and persistent causing a loss of £11,440 to the Agency. The 2011 Panel found Dr Elamin to have no insight and that he had not remediated. It noted that he had paid back the £11,440 in full.

68. The Tribunal considered the case of *Nooh* and determined that that whilst the misconduct was serious enough to warrant erasure, on the spectrum of dishonesty in cases involving erasure, it was at the lower end of seriousness.

69. The Tribunal had regard to the bundle of documentary evidence submitted by Dr Elamin, and his self-learning evidenced by him both written and oral submissions.

70. The Tribunal considered that following his erasure in 2011, Dr Elamin went back to Sudan and prior to the decision of the MPTS being published, he reported the outcome to his supervisor and the SMC. They put in place a number of recommendations and goals for Dr Elamin to achieve in order to remediate, reflect and gain insight into his conduct. The Tribunal noted that Dr Elamin completed the goals and recommendations made.

71. The Tribunal considered that Dr Elamin started to reflect on his actions immediately following his erasure, and that it had good evidence of his reflections from 20 April 2012 before it.

72. Dr Elamin has also produced recent CPD evidence which he referred to as "revision", which included:

- a. Probity and ethics, module on reflection, 20 November 2023;
- b. How to Ensure a similar Mistake or Misconduct will not be repeated in Future, 21 November 2023; and
- c. Ethics and Ethical Standards for Doctors, 22 November 2023.

73. The Tribunal noted Dr Elamin's detailed and considered oral evidence to the Tribunal in which he expressed that through his remediation and reflection he has learned how his actions impact on public confidence and the reputation of the profession. The Tribunal particularly noted his evidence in which he said that if patients cannot trust their doctor, then they may not take their advice which could lead to patient safety concerns. Whilst the GMC did not consider there to be any patient safety concerns, the Tribunal considered that this demonstrated the level of reflection and learning Dr Elamin has done.

74. When considering evidence of good practice in a similar environment to where the concerns arose, the Tribunal considered the testimonial evidence before it:

Mr A, General Operations and Project Manager, Digestive Diseases Centre, dated 2 November 2022:

"...As manager I have received no complaints about his work performance or integrity. All our work and performance are internally and externally audited and reviewed on a regular basis which is mandatory by the department of health here in Khartoum. Dr Elamin 's performance has been excellent on any metric. He managed thousands of patients and we have never had any complaints in this or any other regard. Furthermore, he undertakes a lot of admin work including financial interactions and everything was done properly in all the years we have worked together. There have never been any issues. He tackled a lot of problems and we certainly had our share of challenges. I have had hundreds of transactions with him and can claim to know him more than most. He is my friend, generous, kind and widely respected..."

Dr B, Senior Lecturer, Head of Pharmacology and Clinical Pharmacy, dated 9 November 2023:

"His reputation as an accomplished first-class operator attracted a lot of referrals, national and international, which brought a lot of recognition and enhanced our reputation. He trained and developed a team of doctors and support staff to deliver training and clinical care and outreach services. We worked together to develop clinical governance and supervised a complex digitalization process which necessitated his getting advanced training in IT and database design so he could supervise the transition.

We were both involved in a lot of financial processes and planning and I can confirm that he was always honest and there certainly were no concerns there. I was grateful to his generous donations to a charity sponsored by the DOC which I run. Donations

included all the consultancy fee that he received from the acquisition process by Elrazi university.

In short, I can testify to his excellent work both in administration and clinical capacity. His integrity is unquestionable and he has my total support in his GMC restoration process.”

Dr C, Consultant Physician and Senior Lecturer, dated 10 November 2023:

“Dr Elamin has been a close colleague and friend for more than 10 years. He required a lot of support initially. Thereafter, he has come into his own and we were the beneficiary of that. He is the country's leading gastroenterologist and he set up our department as well as teaching facilities. He specialises in complex work and we are a tertiary unit because of his presence and leadership.

He is totally trustworthy and of excellent character. He has never had any issues at any level in all of the years he has been with us. He is a first-class operator and a thoroughly decent person and heavily involved in charity work.

He often goes to dangerous areas of the country in the midst of armed conflicts to deliver health care as a volunteer and works with the army on a regular basis...”

Prof D, Head of Academic Affairs, Elrazi University, dated 29 October 2023:

“...(Dr Elamin] has been a key and ever-present member of staff, worked hard for the past years and was instrumental in the growth of the Faculty of Medicine and Gastroenterology services which he heads. He has made huge contributions to teaching and growth of the academic department as he is a full-time lecturer and examiner and also has a major role in postgraduate training.

I always find him approachable, hard-working and always has solutions at his disposal for all kinds of problems that we frequently have. He made a number of major contributions in the department of medicine which include modernising the curriculum and upgrading assessment tools. He also teaches students directly and is popular with students and staff alike. His character and integrity have never been in question.

It is not surprising or strange that he most recently risked his well-being and in fact got injured whilst attempting to protect members of staff, patients and students from militia attack when our compounds were ambushed by paramilitaries...”

Mr E, Consultant Surgeon, dated 4 November 2023:

“...I can testify to his excellent work both clinical and academic. I work closely with him and thus able to confirm that he is highly competent and really knows his field. He has a heavy workload which he undertakes brilliantly. He had never had any issues professional or otherwise. His conduct has always been exemplary.

Noteworthy is his willingness and persistence to work during the war when many others refused and understandably travelled far away to escape the violence. He stayed behind when everyone had left and in so doing put his life at great risk and in fact sustained a near fatal incident when the hospital compound came under fire. He was called upon to help with the defence effort and he duly obliged getting hurt in the process.

...

There is a general consensus that he is leader in his field in the country. He developed various techniques to suit our local environment as a result our centre has won various there is awards.”

Mr F, Managing Director, Sudan Lawn Tennis Association, dated 5 November 2023:

“Adil has been the Secretary General for the national Tennis association for a number of years having contested and won elections for this highly sought after coveted position. He is highly regarded by us and by the ITF whose HQ is in London and I am sure would vouch for him...”

For my part I can testify to the work he has done for SLTA. He totally transformed tennis in our region having worked closely with a number of stakeholders. He is central to all operations including finance and I can wholeheartedly say he was fantastic. He introduced additional audit, organisation and governance. He did a huge amount of work which is done on a voluntary basis.

Apart from the level of organization and professionalism he brought, he raised funds for all aspects of tennis through his network of contacts and sponsors...”

75. The Tribunal considered that the testimonials demonstrated considerable and consistent support for Dr Elamin’s clinical competence, integrity, honesty and how he is held in high regard in Sudan. It also noted that in the 2011 Panel, the Tribunal also found it noteworthy to recognise that Dr Elamin was a good clinician and that there were no patient safety concerns. The tribunal considered that the testimonials demonstrate that Dr Elamin has undertaken roles in which he has managed finances both at the university and within the Sudan Lawn Tennis Association, without issue.

76. In his Summary Report on Main Developments in Hospital Practice Since 2011, Dr Elamin states that:

“The principles of clinical practice are exactly what I had left behind, still reliant on the same universal principles, as it should, history taking, clinical examination, generalised and specialised investigations and management/treatment and follow up plans. All developments in investigations, guidelines or newer treatment modalities are exactly the same as those elsewhere in the World. All clinicians use the same primary data

sources in updates regarding clinical practice and those sources are universal and available to all.”

77. The Tribunal was satisfied that Dr Elamin had fully remediated in a meaningful way, and it could not identify any more that Dr Elamin could have done to demonstrate remediation.

Risk of repetition

78. When considering the risk of repetition, the Tribunal had regard to paragraphs B24 and B39 of the Guidance.

“B24 A low but nonetheless real risk of repetition may be particularly significant where repetition could have a very serious outcome. A low risk of repetition should therefore be carefully distinguished from identifying no risk of repetition.”

“B39 Restoration should not be granted if the tribunal considers there to be a risk the behaviour or performance will be repeated which may result in physical or emotional harm being caused to a patient.”

79. The Tribunal has found that Dr Elamin has developed full insight into his misconduct, has fully remediated, and has demonstrated genuine remorse regarding his conduct in respect of the findings of the 2011 Panel.

80. Dr Elamin told the Tribunal that he was proud to have been a GMC registered doctor and when he lost that he was ashamed.

81. Dr Elamin told the Tribunal how he had had a reckless attitude and had been selfish at the time of the misconduct, but that now the three factors that had changed his life were his XXX, his XXX and his charity work. Dr Elamin said that it would be lunacy to repeat his misconduct of 2008.

82. Given Dr Elamin’s full insight and understanding of his misconduct, the work he has done over the past 12 years, the lack of any concerns prior to 2008 or since that time, and based on all the evidence before it, the Tribunal was satisfied that the risk of any repetition was highly unlikely.

Steps Dr Elamin has taken to keep his medical knowledge and skills up to date

83. Since Dr Elamin’s name was erased from the Medical Register in 2011, the evidence shows that Dr Elamin has worked hard and at a high level in his area of expertise in Sudan and is considered by some to be the leading doctor in his field.

84. The GMC did not raise any concerns regarding Dr Elamin’s clinical currency or competency. The Tribunal accepted the evidence before it that Dr Elamin had kept his medical knowledge and skills up-to-date given he had been practising in a similar role in

Sudan since his erasure in 2011. The testimonials attest to a consistently high standard of care delivered and to a hard-working and skilled clinician.

85. Dr Elamin told the Tribunal about how he undertook a clinical attachment at the Whiston and St Helens Hospital NHS Foundation Trust as he felt it was important to do a clinical attachment if he was ever going to get back into practising the UK, he needed to explore how out of date he was. He said that he was not concerned about his clinical competence, rather that he knew he was lacking in terms of developments in the NHS, and in hospital practice. Over the last 10 years a lot has happened and he needed to be sure that he was aware of how much has changed. He said that he needed to know whether he would cope with this change and he satisfied himself that he was not that far behind in his knowledge from discussions he had had with colleagues who seemed to think that he had overstated the change and that things were not so different. Dr Elamin said that he recognised how important it was to get on with managers and what the goals are between different departments.

86. Overall, the Tribunal was satisfied that Dr Elamin had discharged the burden on him to show that his medical knowledge and skills were up to date.

Lapse of time since erasure

87. The Tribunal had regard to paragraphs B33 and B34 of the Guidance:

“B33 The length of time that has elapsed since the doctor was erased will be relevant although will not necessarily equate to them no longer posing a risk to patients or to public confidence in the profession.

B34 The longer the doctor has been away from clinical practice, the greater the likelihood that their knowledge and skills will have deteriorated to a degree that may place patients at risk. Tribunals should pay close regard to how the doctor has maintained their knowledge during a lengthy period away from the register.”

88. The Tribunal considered that the index events took place over a three-week period in October 2008, his name was erased from the Medical Register in November 2011, and that there has been a lapse of time of 12 years. As set out in detail already the Tribunal has considered what Dr Elamin has achieved in this time in relation to his insight and remediation, and that he has kept his knowledge and skills up to date.

89. The Tribunal noted that Dr Elamin presents as a very different person to the doctor who appeared before the 2011 Panel with genuine insight and remorse demonstrated throughout this hearing.

Will restoration meet the overarching objective?

90. Having made the above findings as to whether Dr Elamin is fit to practise, the Tribunal next had regard to the statutory overarching objective. In so doing, it performed a balancing

exercise, weighing its findings above with its obligations under the individual limbs of the overarching objective which it has already set out.

91. The Tribunal was satisfied that if it were to restore Dr Elamin's name to the Medical Register, in so doing it would maintain the health, safety and well-being of the public. There were no concerns about Dr Elamin's clinical abilities before the 2011 Panel, or patient safety concerns, and no new concerns have been raised since then.

92. When considering limb two, namely public confidence in the profession, the Tribunal considered the findings of the 2011 Panel, that this was a doctor whose misconduct was serious, repeated dishonesty though isolated to a three-week period. Dr Elamin's conduct brought the profession into disrepute and erasure was the sanction appropriate and proportionate response.

93. The Tribunal considered however that Dr Elamin's misconduct was at the lower end on the spectrum of seriousness, in that he was not erased for conduct that was of an exceptionally serious nature, as referred to in the Guidance.

- Murder
- rape or sexual assault by penetration
- sexual offences involving children or adults with a mental disorder impeding choice. This could include the creation, possession or distribution of child sex abuse materials.
- offences involving human trafficking, slavery, servitude and forced or compulsory labour
- extortion and blackmail.

94. The Tribunal was satisfied that the public interest in the case was met when Dr Elamin was erased from the Medical Register in 2011, and that a reasonable and fully informed member of the public would now attach weight to the progress that the doctor has made in the intervening years. Dr Elamin now has insight, has remediated his misconduct and kept his knowledge and skills up to date. It also noted that the negative personal circumstances present at the time of his misconduct are no longer a factor.

95. The Tribunal determined therefore that public confidence in the medical profession would not now be undermined if Dr Elamin's name was restored to the Medical Register.

96. When considering limb three of the overarching objective, the Tribunal was satisfied that a clear message was sent out to the medical profession that Dr Elamin's conduct, which led to his erasure in 2011, was not acceptable, and fell far below the standards expected of medical practitioners. The Tribunal was satisfied that the sanction of erasure serves as a deterrent to other medical professional and sends out a clear message that such conduct is not acceptable.

97. The Tribunal considered that the hard work and journey that Dr Elamin has undertaken to reach the stage where his name can be restored to the Medical Register is commendable. The Tribunal is impressed by the progress Dr Elamin has made since

recognising that he did not meet the standards of conduct expected of him. This journey has reassured the Tribunal that it would not undermine proper professional standards and conduct for members of the profession were it to grant the application for restoration.

98. The Tribunal was therefore satisfied that limb three of the overarching objective has been met.

99. In conclusion, the Tribunal determined to grant Dr Elamin’s application for restoration, and direct that Dr Elamin’s name be restored to the Medical Register.