

PUBLIC RECORD

Dates: 11/08/2021

Medical Practitioner's name: Dr Afsa SHAFI

GMC reference number: 6117121

Primary medical qualification: MB ChB 2005 University of Birmingham

| Type of case | Outcome on facts | Outcome on impairment |
|---|------------------|---|
| Review - Deficient professional performance | | Consideration of impairment not reached |

Summary of outcome

Adjourned to a new tribunal. Extend conditions, 9 months.

Tribunal:

| | |
|--------------------------|--------------------|
| Legally Qualified Chair | Mrs Laura Paul |
| Lay Tribunal Member: | Miss Susan Hurds |
| Medical Tribunal Member: | Dr Stephen Duxbury |
| Tribunal Clerk: | Mrs Jeanette Close |

Attendance and Representation:

| | |
|-----------------------|-----------------------------|
| Medical Practitioner: | Present and not represented |
| 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 ADJOURNMENT – 11/08/2021

1. The Tribunal has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Shafi's fitness to practise remains impaired by reason of deficient professional performance, and whether the practitioner has failed to comply with any requirement imposed upon her as a condition of her registration.

Hearing in Private

2. The Tribunal agreed, in accordance with Rule 41 of the Rules, that parts of this hearing should be heard in private where the matters under consideration are confidential, XXX. As such, this determination will be read in private, but a redacted version will be published following the conclusion of this hearing, XXX.

Background

The 2016 Tribunal

3. Dr Shafi's case was first heard by a Medical Practitioners Tribunal ('MPT') in April 2016 ('the 2016 Tribunal'). The 2016 Tribunal found Dr Shafi's fitness to practise to be impaired by reason of deficient professional performance whilst employed by Birmingham and Solihull Mental Health NHS Foundation Trust ('the Trust') between 2012 to 2014 as a CT1 core trainee in psychiatry.

4. The 2016 Tribunal found a number of deficiencies in Dr Shafi's performance including inappropriate prescribing, an inability to summarise findings and an inability to draw conclusions in relation to Mental Health Tribunal reports.

5. The 2016 Tribunal also found that in 2014 Dr Shafi fell asleep in meetings demonstrated inadequate techniques in basic hygiene, preparing for physical examinations

and phlebotomy, keeping clinical records and demonstrated poor clinical judgement for her level of training.

6. The 2016 Tribunal further found that Dr Shafi failed to review a patient when requested to do so and failed to understand the risk regarding head injury.

7. As a result, the 2016 Tribunal found Dr Shafi's fitness to practise impaired by reason of deficient professional performance and suspended her registration for a period of 12 months. The 2016 Tribunal directed a review of Dr Shafi's case and determined that a reviewing Tribunal would be assisted by the following:

- evidence that she has developed insight into the nature of the deficiencies identified in her practice, as referred to in the Tribunal's determination on impairment, with particular regard to Domains 1, 2 and 3 of Good Medical Practice (2013);
- evidence of a further performance assessment if she is invited to undertake one by the GMC during the period of her suspension;
- evidence that she has kept her skills and knowledge up to date through continuing professional development activities by her attendance at appropriate, accredited, structured training courses, reading and online learning, together with detailed and structured reflections;
- evidence of her commitment and engagement with the review process;
- any other evidence which she thinks may assist the reviewing Tribunal.

The 2017 Tribunal

8. Dr Shafi's case was reviewed in 2017 ('the 2017 Tribunal'). That Tribunal noted that an assessment of Dr Shafi's performance was undertaken in February 2017 and it was provided with a copy of a Performance Assessment report dated 27 March 2017. Of the eight categories assessed, Dr Shafi's performance was found to be unacceptable in the following five categories: Maintaining Professional Performance, Assessment, Clinical Management, Relationships with Patients, and Working with Colleagues. In the category of Record Keeping, Dr Shafi's performance was assessed as being a cause for concern.

9. The 2017 Tribunal found that Dr Shafi's fitness to practise remained impaired by

reason of deficient professional performance and imposed a further suspension for 12 months. The 2017 Tribunal considered that this period of time would allow Dr Shafi time to address the serious concerns identified by the 2016 Tribunal and further develop her insight and take action to demonstrate that she had the commitment, drive and capacity to respond to training.

The 2018 Tribunal

10. Dr Shafi's case was next reviewed in 2018 ('the 2018 Tribunal'). The 2018 Tribunal noted that Dr Shafi had engaged with the GMC more than she had previously and had gained further insight. She had also made further progress towards remediating the deficiencies identified in her performance. However, the 2018 Tribunal considered that Dr Shafi's performance remained deficient in a wide range of areas and it considered that until these were fully remediated there remained a risk of repetition and a risk to patients. The 2018 Tribunal therefore determined that Dr Shafi's fitness to practise remained impaired by reason of deficient professional performance.

11. With regards to sanction the 2018 Tribunal determined to impose conditions on Dr Shafi's registration for a period of eighteen months. It considered that this would provide Dr Shafi with an opportunity to develop her clinical skills whilst guarding against any risk to patients. The conditions included a provision that Dr Shafi should be directly supervised by a clinical supervisor and that she should undertake a further performance assessment.

12. The 2018 Tribunal determined to direct a review of Dr Shafi's case and set out the evidence that a reviewing Tribunal would be assisted by:

- A report from Dr Shafi's clinical supervisor and educational supervisor;
- An updated PDP produced in conjunction with Dr Shafi's clinical supervisor and educational supervisor;
- Evidence that Dr Shafi has kept her skills and knowledge up to date through Continuing Professional Development activities by her attendance at appropriate, accredited, structured training courses, reading and online learning, together with detailed and structured reflections;
- Evidence to demonstrate to a reviewing Tribunal that Dr Shafi has satisfactorily addressed the deficiencies outlined in the findings of the Performance Assessment; and
- Any other evidence which Dr Shafi considers may assist the reviewing Tribunal

The February 2020 Tribunal

13. On 7 February 2020 Dr Shafi’s case was reviewed by an MPT Tribunal (‘the February 2020 Tribunal’). Dr Shafi was represented by XXX, Dr A at this hearing.

14. At this hearing Dr Shafi had not provided any of the information suggested by the previous Tribunal. During the course of the hearing, the February 2020 Tribunal was presented with new material provided by Dr Shafi which included two letters, XXX.

15. XXX.

16. XXX.

17. In response, Mr Donoghue, on behalf of the GMC, submitted that this was not a power which was open to a reviewing Tribunal as it should not go behind the decision of a previous Tribunal. XXX. Mr Donoghue stated that if the Tribunal had concerns with regards to the new evidence presented by Dr Shafi it could adjourn the hearing XXX. He stated that any new findings would then be considered at a future hearing. As a result, Dr A made an application for an adjournment on the basis as set out by Mr Donoghue.

18. The February 2020 Tribunal determined to adjourn the hearing for six months and reminded Dr Shafi of the material that she may provide to assist the reviewing Tribunal.

The August 2020 Tribunal

19. At the outset of Dr Shafi’s hearing in August 2020, (‘the August 2020 Tribunal’), Mr Donoghue, Counsel for the GMC made an application to adjourn the hearing. XXX.

20. Mr Donoghue submitted that Dr Shafi had not provided any of the evidence suggested by the previous Tribunals. He stated that Dr Shafi had not worked since 2013, save for a short clinical attachment in 2018, apart from that and her attendance on some courses, Dr Shafi had provided none of the other evidence requested of her.

21. Mr Donoghue submitted that in the interest of fairness the proceedings should adjourn for a period of six months XXX.

22. Mr Donoghue assured the Tribunal that the GMC was confident that an adjournment of six months would allow time for XXX and for the GMC to conclude its investigation XXX.

23. In all the circumstances the August 2020 Tribunal determined that, in light of the limited information before it, it would risk unfairness to Dr Shafi if it continued with the hearing. The August 2020 Tribunal therefore determined to adjourn the proceedings for a period of six months.

24. The August 2020 Tribunal directed Dr Shafi to provide a statement to the GMC by 3 September 2020 setting out her medical history of training since she left school as well as her plans for work in the future. It directed that a Tribunal reviewing Dr Shafi's case would be assisted if she provided the documents already requested by previous Tribunals together with an updated statement from Dr Shafi, XXX.

The February 2021 Tribunal

25. Dr Shafi's case was next reviewed on 5 February 2021. At the outset of proceedings Mr Peter Byrne, Counsel, on behalf of the GMC made an application to adjourn the hearing for a period of six months.

26. Mr Byrne submitted that due to the ongoing Coronavirus Pandemic, XXX.

27. Mr Byrne reminded the Tribunal that, save for a short clinical attachment in May 2018, Dr Shafi had not worked since 2013 and although she had attended some courses, Dr Shafi had yet to provide the evidence requested by previous Tribunals. Mr Byrne submitted that without this evidence it would not be possible for the Tribunal to assess Dr Shafi's fitness to practise.

28. Mr Byrne invited the Tribunal to grant a further adjournment for a period of six months to allow time for the GMC to conclude its investigation.

29. Dr Shafi supported the application and stated that she would use the time to collate the information she intended to present to the next Tribunal.

30. XXX. The Tribunal considered the importance of striking a balance between fairness to Dr Shafi and the public interest and considered that proceeding without such evidence would risk causing unfairness to Dr Shafi. In all the circumstances the Tribunal determined to adjourn the hearing for a further six months to allow the GMC to conclude its investigation.

31. After hearing submissions from parties, the Tribunal determined to extend the order of conditions imposed on Dr Shafi's registration for a period of six months. The Tribunal also

took the opportunity to remind Dr Shafi of the documentation likely to assist a reviewing Tribunal at her next MPT review hearing.

Today's Hearing

Application to Adjourn

32. Ms Renton submitted that the Tribunal should adjourn the proceedings under Rule 29(2). She took the Tribunal through the background of this case. She stated that Dr Shafi first came before a Tribunal in April 2016 and her fitness to practise was determined to be impaired by reason of her deficient professional performance and her registration was suspended for a period of 12 months.

33. Ms Renton submitted that Dr Shafi's case was next reviewed in July 2017, and Dr Shafi had undergone a Performance Assessment prior to the hearing. Ms Renton stated that the report found Dr Shafi's performance to be unacceptable in five areas and a cause for concern in one area. She stated that Dr Shafi had scored below the minimum standard in the knowledge test and the Tribunal concluded that Dr Shafi's fitness to practise remained impaired by reason of deficient professional performance and imposed a further suspension for 12 months. Ms Renton stated that the Tribunal noted that Dr Shafi had not provided all of the evidence previously requested of her at the first review hearing and that whilst the assessor felt that Dr Shafi could practice with conditions, the 2017 Tribunal felt that there was still a significant amount of work to do to address the concerns regarding Dr Shafi's professional performance and insight.

34. Ms Renton stated the Dr Shafi's case was next reviewed in August 2018. She stated that on that occasion Dr Shafi attended the hearing and was unrepresented. She said that Dr Shafi provided oral and documentary evidence at the hearing and had completed a clinical attachment under direct supervision from May to June 2018, which was the first time she had worked in a clinical setting since 2013. XXX. Ms Renton advised that the 2018 Tribunal made a determination of continued impairment due to Dr Shafi's deficient professional performance XXX. Ms Renton submitted that when it came to consideration of a sanction, the 2018 Tribunal acknowledged that Dr Shafi had taken steps to remediate and amended the order to one of conditions for a period of 12 months and provided a list of documentary evidence that would assist a Tribunal at the next review hearing.

35. Ms Renton informed the Tribunal that the next review was held in February 2020, and that proceedings went off in a different direction. She stated that Dr Shafi attended the hearing and was represented by XXX, Dr A. She said that prior to the hearing Dr Shafi had not

engaged with the GMC but at the hearing Dr A produced XXX. Ms Renton stated that at the time the GMC responded that the reviewing Tribunal did not have the power to introduce a new Allegation and that it could not make a decision on impairment on the new matters but that an adjournment should be sought and granted for 6 months XXX and that the conditions should also be extended.

36. Ms Renton submitted that between that review and the next review on 6 August 2020 XXX but due to Covid-19 the GMC had experienced delays. XXX.

37. Ms Renton stated that at the review hearing the Tribunal noted the submissions made by the GMC that save for a short clinical attachment and attendance on some courses, Dr Shafi had not provided any of the evidence suggested by previous Tribunals. The GMC requested an adjournment for a period of 6 months for the GMC to conclude its investigation. Ms Renton stated that the August 2020 Tribunal determined to adjourn proceedings XXX. The Tribunal considered that it was impossible to justly consider the issue of impairment without XXX and that it also risked unfairness to Dr Shafi. The August 2020 Tribunal therefore determined to adjourn proceedings for a further 6 months and also extended the order of conditions for 6 months.

38. Ms Renton referred to the last review held in February 2021 which commenced with an application by the GMC to adjourn. Ms Renton advised that at that date the GMC was unable to progress the hearing XXX. The February 2021 Tribunal noted that the August 2020 Tribunal had adjourned Dr Shafi's review hearing as it determined that XXX was pertinent to any decision on impairment. The Tribunal reached the same conclusion that it was not possible to assess Dr Shafi's impairment XXX. It therefore determined to adjourn for a further 6 months and again a list of documentary evidence a reviewing Tribunal may be assisted by was provided to Dr Shafi.

39. XXX. Ms Renton said that following receipt of XXX the GMC issued formal allegations in accordance with Rule 7 and referred the case to the Case Examiners (CE) for a decision in accordance with Rule 8. She stated that the CE decided that the case should be referred to the MPTS for a hearing.

40. Ms Renton submitted that on 9 August 2021 the GMC became aware that the MPTS requested the availability of XXX at a listing scheduled between November 2021 and April 2022. She stated that a first listing telephone conference is to be held on 23 August 2021 and that it is likely that XXX will be required. Ms Renton said that this will more than likely result in the hearing being held towards the end of April 2022. Ms Renton stated that the

GMC had spoken with Dr Shafi this week and advised her that the intention was to apply for an adjournment of today's proceedings for a period of 9 months.

41. Ms Renton submitted that at this stage there remains the original issue of deficient professional performance XXX. Ms Renton submitted that it would not be possible for the Tribunal today to review the question of current impairment as information is missing and the Tribunal would not be able to fully explore XXX. Ms Renton advised that following the telephone conference on 23 August 2021 the two cases will more than likely be linked and listed together as a new and review hearing which will allow Dr Shafi to deal with the new and review matters in tandem when all parties are seized of the evidence.

42. Ms Renton stated that although this was a further delay it was pertinent to adjourn for a period of 9 months so that the matters can be considered together.

43. Dr Shafi did not oppose Ms Renton's application for an adjournment.

The Tribunal's Approach

44. The Tribunal had regard to its powers under Rule 29(2) of the Rules which states:

'29 (2) Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.'

45. The Tribunal took into account the submissions of Ms Renton, made on behalf of the GMC, and those of Dr Shafi. The Tribunal considered the importance of striking a balance between fairness to the doctor and the public interest.

46. The Tribunal noted that XXX are to be considered alongside the review matters at an MPT hearing scheduled to be listed between November 2021 and April 2022.

47. The Tribunal considered that XXX was pertinent to any decision on her fitness to practise and that it would not be possible to properly assess the issue of current impairment at today's proceedings without that XXX. In addition, the Tribunal considers that proceeding today without such evidence would risk causing unfairness to Dr Shafi. The Tribunal has

determined that in the absence of XXX it should not go against the decision of previous Tribunals and consider impairment of Dr Shafi's fitness to practise today.

48. In these circumstances the Tribunal has determined to adjourn this hearing for a period of nine months under Rule 29(2), to allow the GMC to conclude its investigation.

49. Having determined to adjourn these proceedings, the Tribunal invited submissions from parties on any action to take with regard to the sanction currently in place on Dr Shafi's registration.

DETERMINATION ON EXTENDING THE CURRENT SANCTION – 11/08/2021

Submissions

50. Ms Renton submitted that the current order of conditions should be extended for the same duration of 9 months. She referred the Tribunal to the submissions made by Mr Byrne, Counsel on behalf of the GMC at Dr Shafi's review hearing in February 2021.

51. She stated that there is no further information regarding Dr Shafi's professional performance and the lack of new information does not suggest that the risk has reduced. She stated that the matter has not moved on in any significant way since the previous review. Ms Renton stated that she echoed the same concerns of Mr Byrne that Dr Shafi has been away from clinical practise for some time and therefore the conditions on her registration should be maintained and continue to the conclusion of the new and review hearing. She stated that this will strike a balance of fairness to Dr Shafi whilst also protecting the public. She stated that extending the current order is both appropriate and proportionate in the circumstances of the case.

52. Dr Shafi did not object to Ms Renton's submission and stated that it was only right that she be subject to supervision at this time.

The Tribunal's Decision

53. The Tribunal notes the submissions made by Ms Renton on behalf of the GMC and those made by Dr Shafi. It considered the length of time that Dr Shafi has been out of clinical practice and determined that the order of conditions as currently drafted strike the proportionate balance between fairness to Dr Shafi and protection of the public.

54. The existing conditions are therefore extended for a further nine months as follows:

The following conditions relate to Dr Shafi's employment and will be published:

1. She must notify the GMC within seven calendar days of the date these conditions become effective:
 - a of the details of her current post, including her job title, job location and responsible officer (or their nominated deputy) information
 - b of the contact details of her employer and/or contracting body, including her direct line manager
 - c of any organisation where she has practising privileges and/or admitting rights
 - d of any training programmes she is in
2. She must notify the GMC:
 - a of any post she accepts, before starting it
 - b if any formal disciplinary proceedings against her are started by her employer and/or contracting body, within seven calendar days of being formally notified of such proceedings
 - c if she applies for a post outside the UK.
3. She must allow the GMC to exchange information with any person involved in monitoring her compliance with her conditions.
4.
 - a. She must have a workplace reporter approved by her responsible officer (or their nominated deputy) and must inform the GMC of these arrangements.
 - b. She must not start/restart work until her responsible officer (or their nominated deputy) has approved her workplace reporter and this approval has been forwarded to the GMC.
5.
 - a. She must design a personal development plan (PDP), approved by her responsible officer (or their nominated deputy), with specific aims to address the deficiencies in the following areas of her practice.
 - Maintaining Professional Performance
 - Assessment

- Clinical Management
 - Relationships with Patients
 - Working with Colleagues
 - Record-keeping
- b. She must give the GMC a copy of her approved PDP within three months of these conditions becoming effective.
- c. She must give the GMC a copy of her approved PDP on request.
- d. She must meet with her responsible officer (or their nominated deputy), as required, to discuss her achievements against the aims of her PDP.
6. a. She must have an educational supervisor approved by her responsible officer (or their nominated deputy) and must inform the GMC of these arrangements.
- b. She must not start/restart work until her responsible officer (or their nominated deputy) has approved her educational supervisor and this approval has been forwarded to the GMC.
7. She must undertake an assessment of her performance, on a date given by the GMC, unless notified by the GMC that this assessment is not necessary.
8. She must share her performance assessment report 27 March 2017 with:
- a. her employer and/or contracting body
 - b. her responsible officer (or their nominated deputy)
 - c. her immediate line manager at her place of work, at least one working day before starting work (for current and new posts)
 - d. any prospective employer and/or contracting body, at the time of application
 - e. The responsible officer of any organisation where she has, or have applied for practising privileges and/or admitting rights, at the time of application
 - f. her workplace reporter and educational supervisor and

clinical supervisor.

9. a. She must only prescribe, administer, and have primary responsibility for drugs under arrangements that have been agreed with her responsible officer (or their nominated deputy) and she must inform the GMC of these arrangements.
 - b. She must not start/restart work until these arrangements have been agreed and the GMC has been informed of these arrangements.
10. She must only work in the NHS.
11. a. She must be directly supervised in all of her posts by a clinical supervisor, as defined in the Glossary for undertakings and conditions. Dr Shafi's clinical supervisor must be approved by her responsible officer (or their nominated deputy) and she must inform the GMC of these arrangements.
 - b. She must not start/restart work until her responsible officer (or their nominated deputy) has approved her clinical supervisor and this approval has been forwarded to the GMC.
12. She must get approval from her responsible officer (or their nominated deputy), and she must inform the GMC before working:
 - a. out-of-hours
 - b. on call
13. She must not work as a locum
14. She must inform the following persons of the conditions listed at 1 to 13:
 - a. her employer and/or contracting body
 - b. her responsible officer (or their nominated deputy)
 - c. her immediate line manager at her place of work, at least 24 hours before starting work (for current and new posts)
 - d. any prospective employer and/or contracting body, at the time of application
 - e. The responsible officer of any organisation where she has, or have applied for, practising privileges and/or admitting rights, at the time of application

55. The MPTS will write to Dr Shafi confirming the date upon which the extension of the conditions comes into effect.

56. The Tribunal wish to remind Dr Shafi of the documentation which is likely to assist the Tribunal at her next MPT review hearing:

- A report from Dr Shafi's clinical supervisor and educational supervisor
- An updated PDP produced in conjunction with Dr Shafi's clinical supervisor and educational supervisor
- Evidence that Dr Shafi has kept her skills and knowledge up to date through Continuing Professional Development activities by her attendance at appropriate, accredited, structured training courses, reading and online learning, together with detailed and structured reflections
- Evidence to demonstrate to a reviewing Tribunal that Dr Shafi has satisfactorily addressed the deficiencies outlined in the findings of the performance assessment
- XXX
- A statement to her GMC contact setting out her medical history of training since she left school together with her plans for work in the future. The statement should have attached to it Dr Shafi's CV
- Any other evidence which Dr Shafi considers may assist the reviewing Tribunal.

57. That concludes this hearing.