

PUBLIC RECORD

Date: 21 May 2024

Medical Practitioner's name:	Dr Amitabh KUMAR
GMC reference number:	7053276
Primary medical qualification:	MBBS 1996 Lucknow University - King George's Medical College
Type of case	Outcome on impairment
Misconduct	Impaired

Summary of outcome

Suspension for 9 months

Legally Qualified Chair:

Legally Qualified Chair:	Mrs Julia Oakford
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Review on the Papers

This case was reviewed on the papers, with the agreement of both parties, by a Legally Qualified Chair.

Overarching Objective

Throughout the decision making process the chair 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.

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1. I have noted the background to Dr Kumar's case, which was first considered by a fitness to practise Medical Practitioner's Tribunal in July 2015 ("the 2015 Tribunal"). On 15 August 2014, Dr Kumar was convicted of sexual assault and sentenced to a Community Order for 60 days and placed on the Sexual Offenders' Register for a period of five years.

2. The conviction related to an incident on a public bus on 18 April 2014, when Dr Kumar touched the back and hair of a 15-year-old female passenger, as well as using his foot to rub her leg. Dr Kumar was arrested and detained by the police on the day of the incident, before being interviewed and released on bail. He was subsequently charged with the offence of sexual assault and entered a guilty plea to the offence on 15 August 2014 at Bradford and Keighley magistrates court when he was sentenced to the Community Order of 60 days. Dr Kumar did not inform the GMC of the charge, his conviction or the sentence he received.

3. The 2015 Tribunal determined that Dr Kumar's fitness to practise was impaired by reason of the sexual assault conviction and by misconduct, in failing to notify the GMC of his charge and conviction. The 2015 Tribunal had regard to the nature of the offence i.e. sexually assaulting a 15-year-old girl in a public place which led to the sentence being imposed. The Tribunal considered that the public confidence in the profession had been undermined and the profession brought into disrepute. Specific breaches of Good Medical Practice ("GMP") were also found in relation to Dr Kumar's failure to notify the GMC of the charge and conviction as well Dr Kumar demonstrating a lack of insight.

4. The 2015 Tribunal took account of Dr Kumar's guilty plea and other mitigating factors, including the fleeting nature of the sexual touching and the absence of repetition. However, the Tribunal considered the sexual assault of a Juvenile to represent a serious breach of GMP and likely to bring the profession into disrepute. The Tribunal was also not satisfied that Dr Kumar had demonstrated sufficient insight into his actions and that more reflection was needed to reduce the risk of repetition. The Tribunal concluded that erasure was not required, but in order to maintain public confidence in the profession, an order of suspension for the maximum period of 12 months was necessary and proportionate.

5. Dr Kumar's case was reviewed by a Tribunal on 14 July 2016 ("the 2016 Tribunal") and it considered the background of the case, as well as a reflective statement and other developments. Dr Kumar had attended all necessary appointments with his probation officer, but the offence-focused work had been limited due to Dr Kumar stating that he could not remember the incident. The Tribunal determined that Dr Kumar's fitness to practise remained impaired by reason of his conviction and misconduct, as he still did not appreciate

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the gravity of the offence and had not provided sufficient evidence of insight, with a resulting risk of repetition.

6. The 2016 Tribunal suspended Dr Kumar's registration for a further period of 12 months, to allow him a further opportunity to reflect and gain insight into his conviction and misconduct. The Tribunal provided Dr Kumar with recommendations of what may assist a future Tribunal at a review hearing.

7. Dr Kumar's case was reviewed by a Tribunal between the 25 to 26 July 2017 ("the 2017 Tribunal"). The background of the case was considered as well as a quantity of documentary and witness evidence. The 2017 Tribunal was satisfied that Dr Kumar had demonstrated exceptional insight and now understood the gravity of the offence, which resulted in him no longer being impaired by reason of his conviction. However, the Tribunal considered there to be insufficient evidence of remediation, particularly in maintaining his skills and knowledge. The Tribunal concluded that Dr Kumar's fitness to practise remained impaired by reason of misconduct.

8. In considering sanction, the 2017 Tribunal was impressed by Dr Kumar's level of insight but concerned about the absence of evidence of maintaining skills and knowledge. The Tribunal decided to suspend Dr Kumar's registration for a period of nine months to provide Dr Kumar with the opportunity to seek and secure clinical attachments, as well as to undertake necessary courses. The Tribunal provided recommendations for evidence to be obtained by Dr Kumar that would assist a reviewing Tribunal.

9. A review was undertaken of Dr Kumar's case on 22 May 2018 ("the 2018 Tribunal"), which recounted the background of the case and subsequent developments. Dr Kumar provided evidence of the courses he had undertaken, as well as offers for clinical attachments. The Tribunal found, that as Dr Kumar remained on the Sexual Offender's Register, coupled with his own concession that his knowledge and skills were insufficient, a further finding of impaired fitness to practise was necessary.

10. The 2018 Tribunal suspended Dr Kumar's registration for a further period of 8 months and gave Dr Kumar detail of what would assist a future reviewing tribunal highlighting that there was a persuasive burden on him to demonstrate that his skills and knowledge were up to date.

11. Dr Kumar's case was next considered by a Tribunal in January and March 2019 ("the March 2019 Tribunal"), where some further documentary evidence was provided by Dr

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Kumar, but at that time he had not been able to undertake any clinical attachments. This Tribunal found that his fitness to practise remained impaired as he remained subject to the Sexual Offender's notification requirements and had not provided sufficient evidence that his skills and knowledge had been maintained. Dr Kumar was suspended for a further 6 months by this Tribunal, with recommendations to engage with the Deanery and obtain a mentor in advance of a subsequent review.

12. Dr Kumar's case was again reviewed on 2 September 2019 ("the September 2019 Tribunal"), by which point he was no longer subject to the Sex Offenders' notification requirements. However, Dr Kumar's fitness to practise was found to be impaired on the basis that he had not undertaken any clinical practice since 2010 and was found to be deskilled. This Tribunal suspended Dr Kumar's registration for 12 months to allow him sufficient opportunity to undertake substantial efforts to return to clinical practice, detailing steps that should be taken in advance of a review. This included that he engages with the Deanery; secures a mentor; provides continued evidence of maintaining his medical knowledge; documentary evidence of the attempts he has made to seek clinical or non-clinical attachments and reports from them.

13. Dr Kumar's case was the subject of reviews on the papers on 12 August 2020, 20 August 2021 and again on 8 August 2022. On all three occasions, as both the GMC and Dr Kumar agreed that there had been no change in circumstances, three further periods of 12 months' suspension were imposed.

14. On 24 July 2023 a further review on the papers was undertaken by a Legally Qualified Chair (LQC), as both the GMC and Dr Kumar agreed. The LQC on this occasion found that Dr Kumar had difficulties in his personal life relating to a significant bereavement and an ongoing property dispute. He had not provided any evidence that he has undertaken any clinical practice since 2010. The LQC determined to suspend Dr Kumar's registration for a further 9 months as this would allow him additional time to undertake remediation steps; have the opportunity to engage with the Deanery; secure a mentor and provide evidence of having maintained and updated his medical knowledge.

15. Dr Kumar's case has not been reviewed by a full Tribunal since 2 September 2019.

16. The LQC on 24 July 2024 did not have the power to order a Review of Dr Kumar's case so on 3 November 2023 an Assistant Registrar (AR) considered the case and decided that a Review Hearing was necessary. The AR stated that the reviewing Tribunal would need to see objective evidence so that they can assess Dr Kumar's insight and remediation. This

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could include evidence that Dr Kumar has kept his skills up to date, and that his return to unrestricted practice won't put patient safety at risk.

17. Dr Kumar and the GMC have agreed that this review should be considered on the papers in accordance with Rule 21B of the General Medical Council (Fitness to Practise) Rules 2004. They have provided agreed terms of an order which I could make at this review.

18. I have considered all of the evidence presented to me, and the agreed submissions made by Dr Kumar and by the GMC. In the submissions, Dr Kumar and the GMC agree that Dr Kumar's fitness to practise remains impaired by reason of his misconduct and that Dr Kumar's registration should be subject to a further period of suspension for 9 months.

19. I have taken into account that since the previous order was last reviewed the circumstances have not changed and Dr Kumar has still not been able to meet the recommendations of the September 2019 Tribunal nor what was stated by the AR. However, Dr Kumar has provided the following information in an email dated 10 March 2024:

"I submit XXX.

Apart from XXX, I am still trying to process the grief of XXX loss somewhat belatedly, as the protracted litigation with my housing providers around the time of XXX passing away, did not even allow me the mental space to process XXX loss, which I am not processing slowly. For the very personal reasons that I am unable to disclose or describe herein, of late this grieving process has become quite intense, emotionally. On top of the above, my housing situation still remains unstable, and I have unfortunately been dragged into another civil litigation, quite unnecessarily. Due to the cumulative effect of these issues outlined herein above, I have realised that I am currently unfit and unable to meaningfully engage in any academic activities/actions in order to upgrade my medical knowledge and meet the recommendations set out in my previous Review Hearing Determination. Therefore, in view of the above I am submitting for my suspension to be extended by another 9 to 12 months whichever duration may be acceptable to the General Medical Council."

Since this email Dr Kumar has signed an agreement form on 14 May 2024 agreeing to the current order of suspension being extended for a further period of 9 months.

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20. In reaching my decision, I have taken account of the Sanctions Guidance. I have borne in mind that the purpose of the sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

21. I have applied the principle of proportionality, weighing Dr Kumar's own 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 declaring and upholding of proper standards of conduct and behaviour.

22. I am satisfied that Dr Kumar's fitness to practise remains impaired by reason of misconduct and that a period of suspension is proportionate and would be sufficient to protect the public and the public interest. I have therefore determined that Dr Kumar's registration be suspended for a further period of 9 months.

23. In reaching this decision, I have had particular regard to the submissions made by Dr Kumar relating to XXX and personal issues he is experiencing including the grief at the loss of XXX and a continuing property dispute. All of these have had the cumulative effect on Dr Kumar that he is unable to engage in activities/ actions to enable him to satisfy any recommendations from the September 2019 Tribunal, or what was stated by the AR that a reviewing Tribunal would need to see. Dr Kumar has provided no evidence of undertaking clinical practice since 2010 and a further period of suspension for 9 months would provide Dr Kumar with a further opportunity to engage with the Deanery, obtain a mentor, provide evidence that he has maintained and updated his medical knowledge and that should he return to practice patient safety would not be put at risk.

24. The effect of this direction is that, unless Dr Kumar exercises his right of appeal, the period of suspension will take effect 28 days from when written notice of this determination has been served upon him. The current order of suspension will remain in place until the appeal period has ended, or in the event that he does appeal, that appeal is decided. A note explaining Dr Kumar's right of appeal will be provided to him.

25. Notification of this decision will be served on Dr Kumar in accordance with the Medical Act 1983, as amended.