

PUBLIC RECORD

Dates: 20/11/2023 - 23/11/2023
03/06/2024 - 05/06/2024

Medical Practitioner's name: Dr Amoolya PRASAD

GMC reference number: 2575269

Primary medical qualification: MB ChB 1982 University of Manchester

Type of case	Outcome on impairment
XXX Review - Deficient professional performance	XXX Impaired

Summary of outcome
Conditions, 24 months

Tribunal:

Legally Qualified Chair	Ms Ijeoma Omambala
Medical Tribunal Member:	Dr Neil Smart
Medical Tribunal Member:	Dr Farah Yusuf

Tribunal Clerk:	Miss Maria C
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Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Mr Julian Goode, Counsel, 20-23 November 2023 Ms Fiona McNeill, Counsel, 03-06 June 2024

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 Impairment - 04/06/2024

1. This determination will be read in private. However, as this case concerns Dr Prasad's deficient professional performance a redacted version will be published at the close of the hearing.
2. At this review hearing the Tribunal now 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 Prasad's fitness to practise is impaired by reason of deficient professional performance XXX

The Outcome of Applications Made during the Impairment Stage

3. The Tribunal granted the GMC's application that matters relating to XXX be heard in private, with matters relating to Dr Prasad's deficient professional performance to be held in public session. Dr Prasad had no objection to the application.
4. The Tribunal also granted the GMC's application to introduce new evidence, namely written responses from XXX in answer to questions submitted in writing by Dr Prasad. Dr Prasad had no objection to this application.
5. On day four of the hearing, 23 November 2023, due to there being insufficient time for the Tribunal to conclude Dr Prasad's case, the Tribunal determined that it was necessary to adjourn the hearing under Rule 29(2) of the Rules. As the conditions on Dr Prasad's registration at that time were due to expire on 10 December 2023, the Tribunal invited submissions from parties as to whether it was necessary to extend the current order of conditions in accordance with section 35D(12)(c) of the Medical Act 1983, bearing in mind that the earliest date for the reconvened hearing would be 03 June 2024. The Tribunal's decision is at Annex A.

6. On day five of the hearing, 3 June 2024, the Tribunal refused Dr Prasad's application that Dr A's evidence be nullified in its entirety. Dr Prasad contended that Dr A had contradicted/broken his affirmation by consulting the Internet in response to questions asked of him by Dr Prasad, without permission. The Tribunal's full decision is at Annex B.

Background

2013

7. Dr Prasad's case was first considered by a Fitness to Practise Panel in 2013 in relation to allegations of misconduct and deficient professional performance.

8. In 2012, a Performance Assessment Team ('PAT') found Dr Prasad's professional performance to be unacceptable in several areas and was of the opinion that Dr Prasad was only fit to practise on a limited basis, under direct supervision. In addition, Dr Prasad had acted in breach of conditions imposed on his registration by an Interim Orders Panel by failing to have his work supervised by a named GP.

9. The 2013 Panel determined that breaching the interim order amounted to serious misconduct as Dr Prasad's work was not supervised at a time when there were concerns about his professional performance which, potentially, put patients at risk. The Panel also found, on the basis of the PAT Report, that Dr Prasad's performance was unacceptably low and therefore deficient, with a significant risk that he could put *'a patient or patients at unwarranted risk of harm'*. Finding Dr Prasad's fitness to practise impaired by reason of both misconduct and deficient professional performance, the Panel went on to impose conditions on Dr Prasad's registration for a period of 18 months, a decision that Dr Prasad appealed in the High Court. In 2015, the High Court dismissed Dr Prasad's appeal but removed one of the conditions.

2016

10. A Tribunal reviewed Dr Prasad's case in 2016. It determined that Dr Prasad's fitness to practise was no longer impaired by reason of misconduct.

11. In respect of his deficient professional performance, Dr Prasad had undertaken another performance assessment in January 2016. The 2016 PAT found that while Dr Prasad had improved in some areas since the 2013 hearing, his performance was still unacceptable in several areas. The PAT was of the opinion that Dr Prasad was fit to practise only on a limited basis and under direct supervision. The 2016 Tribunal determined that as Dr Prasad had not fully remediated the concerns of the 2013 Panel, his fitness to practise remained impaired by reason of his deficient professional performance. Having found that Dr Prasad had only partial insight into his failings, the 2016 Tribunal determined to impose a 24 month period of conditions on Dr Prasad's registration in order to assist him in remediating his failings.

2018-2020

12. A review hearing commenced in November 2018 to consider whether Dr Prasad's fitness to practise remained impaired by reason of deficient professional performance.

13. Dr Prasad had undertaken a further performance assessment over April and May of 2018. The 2018 PAT found Dr Prasad's performance to be unacceptable in some areas, and a cause for concern in others. The PAT's opinion was that Dr Prasad was fit to practise on a limited basis only, and it made a number of recommendations including that Dr Prasad only be allowed to practise under close supervision. During the course of the review hearing the Tribunal was concerned that XXX, with the hearing going part-heard on 30 November 2018 until May 2019.

14. The Tribunal reconvened on 30 May 2019 to consider XXX.

15. After a number of further adjournments primarily relating to its consideration of XXX, the Tribunal reconvened on 2 December 2019 and determined to proceed with its original consideration of whether Dr Prasad's fitness to practise remained impaired by reason of deficient professional performance. The Tribunal was of the view that even if XXX may have affected Dr Prasad's performance in his assessments or medical work, this did not affect any decision as to whether he had effectively addressed his performance and, subsequently, whether he was fit to practise without restriction.

16. The Tribunal found that Dr Prasad had taken no steps to address or remedy the deficiencies identified in the 2018 PAT report and concluded that patients would be put at risk and public confidence undermined if Dr Prasad's fitness to practise was found to be no longer impaired. On 15 January 2020 the Tribunal determined that Dr Prasad's fitness to practise remained impaired by reason of his deficient professional performance. The remainder of the hearing was held over a number of sessions between 23 March-11 May 2020.

17. The Tribunal took into account Dr Prasad's limited insight and lack of remediation and concluded a further period of conditional registration would be neither appropriate nor workable. The Tribunal was concerned that patients may be at serious risk if Dr Prasad were allowed to practise at all. On 11 May 2020 the Tribunal determined to suspend Dr Prasad's registration for 12 months to mark the extent and seriousness of its findings.

May 2021

18. Dr Prasad's case was next reviewed in May 2021. XXX. However, the Tribunal found that it was only during this hearing that Dr Prasad appeared to show some insight and accept the deficiencies in his performance. It also found that Dr Prasad had not provided any evidence to demonstrate how he had addressed the deficiencies identified in the 2018 performance assessment and that he was fit to return to unrestricted practise. The Tribunal concluded that patients would be put at risk and public confidence undermined if Dr Prasad's

fitness to practise was found to be not impaired, and determined that Dr Prasad's fitness to practise remained impaired by reason of deficient professional performance. The Tribunal went on to determine that a further period of suspension of six months would allow Dr Prasad the opportunity to remediate the deficiencies identified by the 2018 PAT.

November 2021

19. A Tribunal convened in November 2021 to consider if Dr Prasad's fitness to practise was impaired by reason of XXX his deficient professional performance.

20. XXX

21. The Tribunal also found that Dr Prasad had not demonstrated that he was safe to return to unrestricted practise and could pose a risk to patients if he did so and therefore determined that Dr Prasad's fitness to practise remained impaired by reason of deficient professional performance.

22. The Tribunal determined that the imposition of conditions would have been appropriate in respect of XXX. However, it found that given Dr Prasad's continuing incomplete insight in respect of the deficiencies in his performance, conditions would not be workable and imposed a further period of suspension for six months. The Tribunal was of the view that this period would be a realistic and proportionate timeframe in order for Dr Prasad to put in place the necessary steps to demonstrate that he had fully remediated and developed insight into the specific deficiencies.

2022

23. Dr Prasad's case was next reviewed in May 2022 to consider whether his fitness to practise remained impaired by reason of deficient professional performance XXX.

24. XXX

25. XXX

26. With regard to Dr Prasad's deficient professional performance, the Tribunal took into account the results of the performance assessments undertaken by Dr Prasad in 2016 and 2018. The Tribunal noted that although by 2018 the areas of concern had reduced, there were still some aspects of Dr Prasad's performance that had been assessed as unacceptable. The Tribunal found these aspects to be central to a doctor's practise and, therefore, deficiency in them was likely to put patients at risk.

27. The Tribunal acknowledged Dr Prasad's significant efforts to improve his practise within the confines of suspension, through mentoring, CPD and reflection. It found that Dr Prasad had become more focused and had developed a greater understanding of where his deficiencies lay. The Tribunal took into account that although Dr Prasad's insight was

developing, it was not yet fully formed. While the Tribunal was of the view that Dr Prasad had done all he could while suspended, it reminded itself of its duty to protect the public and concluded that as long as Dr Prasad's remediation and insight remained incomplete, he would present a significant risk to patients if allowed to return to unrestricted practise. The Tribunal determined that Dr Prasad's fitness to practise remained impaired by reason of deficient professional performance XXX.

28. When considering sanction, the Tribunal had regard to the progress made by Dr Prasad and the evidence before it and concluded that Dr Prasad had demonstrated his commitment to keeping his medical skills and knowledge up to date. In addition, the Tribunal bore in mind that Dr Prasad acknowledged he had XXX.

29. The Tribunal took the view that the previous suspension imposed on Dr Prasad's registration had achieved all it could and considered it to be in the public interest for Dr Prasad to return to clinical practice safely. The public would be reassured to know Dr Prasad had been honest about his failings and taken significant steps to remediate these. For these reasons, the Tribunal determined that a period of 18 months conditional registration was the appropriate and proportionate sanction in this case. This would enable Dr Prasad to continue his remediation and provide evidence for any future review hearing.

30. The Tribunal considered that it may assist the reviewing Tribunal if Dr Prasad provided the following information:

- A copy of his Personal Development Plan and evidence of his progress in working towards it;
- A report from his educational supervisor;
- A report from his clinical supervisor;
- Report(s) from his workplace reporter(s);
- Report from his mentor;
- XXX;
- Dr Prasad would also be able to provide any other information that he considered would assist.

Today's Hearing

The Evidence

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

32. The Tribunal heard oral evidence on behalf of the GMC from the following witnesses:

- Dr A, Team Leader, PAT, by video link. Dr A is a Lead GP Partner and a Clinical Director. He sits on the Norfolk and Norwich University Hospital Foundation Trust

Board as a Non-Executive Director. He is a Clinical Supervisor for Foundation Year 2 doctors and an approved Clinical Supervisor for NHS England for Doctors with Conditions. He is also an NHS England General Practice Appraiser.

- Dr B, Medical Assessor, PAT, by video link. Dr B is a GP Partner in London and has been a medical assessor for the GMC Performance Procedures since 2010. He is also a Clinical Advisor for NHSE NE and Yorkshire and Humber.

33. The performance assessors' evidence assisted the Tribunal in understanding the rationale behind the scoring of Dr Prasad's performance assessment and conclusions drawn in relation to his current fitness to practise.

34. Dr Prasad did not provide his own witness statement or give oral evidence at this stage. He did, however, cross-examine both GMC witnesses.

35. The Tribunal received documentation which included but was not limited to:

- Records of Determinations from all previous hearings;
- Email correspondence between Dr Prasad and the GMC relating to requirements of conditional registration, various dates May 2022;
- Dr Prasad's PDP and Appraisal for 2021-2022;
- XXX;
- Assistant Registrar Performance Assessment decision, dated 12 January 2023;
- Dr Prasad's Performance Assessment Portfolio;
- Performance Assessment Report, dated 26 May 2023;
- Dr Prasad's PDP and Appraisal for 2023-2024;
- Performance Assessment Report of 26 May 2023, annotated by Dr Prasad.

Submissions

On behalf of the GMC

36. XXX

37. Ms McNeill submitted that in relation to Dr Prasad's professional performance, the GMC's position was that his fitness to practise remained impaired.

38. Ms McNeill acknowledged the efforts previously made by Dr Prasad in terms of remediation and developing further insight that were recognised by previous tribunals. She submitted that this Tribunal must consider to what extent Dr Prasad had demonstrated such insight and remediation.

39. Ms McNeill referred the Tribunal to the case law she submitted was relevant in this case; *Cohen v General Medical Council* [2008] EWHC 581 (Admin) which provides:

'It must be highly relevant in determining if a doctor's fitness to practice is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated.'

40. Ms McNeill drew the Tribunal's attention to the concern outlined in the conclusion of the performance assessment that there was an unwarranted risk to patient safety and a likelihood of Dr Prasad's deficient performance impacting on patient safety. Ms McNeill submitted that while Dr Prasad's performance was assessed against a number of domains, it had not been possible for all the domains to be assessed. In those that were assessed, Dr Prasad's performance was deemed as unacceptable in the majority of them. The assessor's unanimous conclusion was that Dr Prasad was fit to practise only on a limited basis.

41. Ms McNeill submitted that Dr Prasad's performance remained deficient under the categories of 'Maintaining Professional Performance', 'Assessment of Patients' Condition', 'Clinical Management', and 'Relationships with Patients'. Concerns highlighted included Dr Prasad's repeated and persistent failure to comply with the professional standards expected of a salaried GP and a lack of familiarity with guidelines and regulations, and his inadequate assessments of some patients, placing them at risk.

42. Ms McNeill submitted there was insufficient evidence in some areas, with other areas not assessed. Therefore, there were a number of areas which gave rise for concern and led to the PAT's opinion that Dr Prasad's performance was unacceptable. Ms McNeill further submitted that the judgments and conclusions of the performance assessors were credible, consistent, reliable and persuasive.

43. Ms McNeill confirmed that Dr Prasad agreed his fitness to practise was still impaired in relation to his professional performance; it was the degree to which he considered himself to be impaired that was the issue. She submitted that in terms of insight the Tribunal should bear in mind the length and nature of Dr Prasad's cross-examination of Dr A and Dr B, and consider to what extent Dr Prasad has developed insight and understanding of the degree to which his performance fell short.

44. In closing, Ms McNeill submitted that Dr Prasad's fitness to practise remained impaired by reason of his deficient professional performance and there remained a significant risk of putting patients at unwarranted risk of harm in the future. XXX.

Dr Prasad

45. Representing himself, Dr Prasad submitted that he did not oppose the GMC's submission that his fitness to practise remained impaired in relation to his deficient professional performance.

46. XXX

The Relevant Legal Principles

47. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. This Tribunal was aware that at this stage there was a persuasive burden on Dr Prasad in terms of satisfying the Tribunal on the question of his fitness to return to unrestricted practise.

48. This Tribunal must determine whether Dr Prasad's fitness to practise is impaired today, taking into account Dr Prasad's performance at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

49. The Tribunal was assisted by the guidance provided by Dame Janet Smith in the *Fifth Shipman Report*, as adopted by the High Court in *CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin. In particular, the Tribunal considered whether its findings showed that Dr Prasad's fitness to practise is impaired in the sense that he:

a. Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b. Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d. ...'

50. The Tribunal reminded itself of the statutory overarching objective to protect and promote the health, safety and wellbeing of the public, promote and maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for the members of the profession.

The Tribunal's Determination on Impairment

51. The Tribunal took into account the documentary and oral evidence presented before it, as well as the submissions from both parties.

XXX

52. XXX

53. XXX

54. XXX

Deficient Professional Performance

55. With regard to Dr Prasad's deficient professional performance, the Tribunal first took into account the results of the performance assessment undertaken by Dr Prasad in April 2023, the summaries in the assessment reports and the oral evidence of the two assessors, Dr A and Dr B.

56. With regards to the evidence of the performance assessors, the Tribunal noted that each gave oral evidence that was consistent with their individual assessments. Both assessors were also in agreement with each other. The Tribunal accepted their evidence that they did not confer with each other during Dr Prasad's assessment, arriving at their views independently. In the Tribunal's view this gave weight to their overall conclusion that Dr Prasad's performance was unacceptable in the relevant domains.

57. The Tribunal noted that both assessors were somewhat defensive when giving oral evidence. The Tribunal acknowledge that Dr Prasad's cross examination style was direct and challenging on occasions which may have caused them some discomfort. However, both assessors remained courteous and tried to answer questions put to them and to assist the Tribunal.

58. The Tribunal noted that the assessors had not used the full range of the scale of outcomes available to them and that this had the potential to skew the assessment outcome results. In response to the Tribunal's questions on this matter, both Dr A and Dr B explained that in their training the assessors were trained to use 'Acceptable' or 'Unacceptable' rather than the intermediate category 'cause for concern'. The Tribunal had regard to the experience of the assessors and the fact that they were best placed to make those assessments after having seen Dr Prasad's simulated clinical practise in real time. It was satisfied that the assessors' evidence was founded on robust observations and, on balance, that the observations reflected a true picture of the nuances of Dr Prasad's practise at the time of the assessment.

59. The Tribunal then considered Dr Prasad's insight and any steps he had taken to remediate the deficiencies in his performance.

60. The Tribunal first had regard to Ms McNeill's submission that the length and nature of Dr Prasad's cross-examination of the performance assessors was an indication of his insight. The Tribunal acknowledged that, at times, although he wanted to assist the Tribunal, Dr Prasad had struggled to formulate appropriate questions and to focus on matters relevant to this review hearing. However, whilst he questioned the finer details in the conclusions of the assessors, the Tribunal noted that Dr Prasad did not challenge the overall outcome of the assessment.

61. The Tribunal also considered the evidence of Dr Prasad's Appraisal for 2023-2024, in which Dr Prasad accepted his deficiencies in each area and was able to articulate in detail how he proposed to address these.

62. The Tribunal, therefore, was of the view that Dr Prasad’s cross-examination of the assessors was not a measure of his level of insight or evidence of a non-acceptance of deficiencies. It concluded that Dr Prasad was entitled to challenge details of the assessors’ conclusions in this hearing and had demonstrated sufficient reflection and insight in his appraisal.

63. Looking next at remediation, the Tribunal took into account the learning work Dr Prasad has undertaken and his proposed PDP, evidenced in his 2023-2024 Appraisal, as well as the comments of the appraiser, Dr D:

“He has addressed aspects of the 4 GMC domains. He has also provided evidence with meaningful reflection for his PDP, which is also a GMC stipulation.”

“He should be congratulated on the level of learning and development he has been able to complete across this appraisal year. He has shown a positive mental attitude and feels he is ready to start work ... Despite his restrictions to work and difficulty in seeing patients, he has been able to fulfil the necessary requirements that were placed upon ...”

64. The Tribunal acknowledged that it was difficult to demonstrate remediation in cases of deficient professional performance other than in another performance assessment. While Dr Prasad had clearly developed his insight further and was working hard to address the areas of deficiencies in his practise, all his remediation had been done in the context of not seeing patients. The Tribunal could not disregard the fact that some of the deficiencies identified in the performance assessment process had the potential to put patients at unwarranted risk of harm. The Tribunal was of the view that although Dr Prasad is addressing the shortfalls in his performance (evidenced in his 2023-2024 Appraisal) he still needs to achieve satisfactory scores in all the relevant domains in a performance assessment to demonstrate practically that the concerns have been addressed.

65. Accordingly, the Tribunal considered that a finding of impairment was necessary in this case to satisfy the overarching objective.

66. This Tribunal has therefore determined that Dr Prasad’s fitness to practise remains currently impaired by reason of his deficient professional performance.

Determination on Sanction - 05/06/2024

67. Having determined that Dr Prasad’s fitness to practise is impaired by reason of his deficient professional performance, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to Dr Prasad’s registration.

The Evidence

68. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing where relevant to reaching a decision on what action, if any, it should take with regard to Dr Prasad's registration.

69. Dr Prasad gave oral evidence at this stage of the hearing. He addressed the recommendations of the performance assessors, highlighting the areas he believed to be too restrictive and provided the Tribunal with alternatives to these. Dr Prasad told the Tribunal that he found the performance assessment process too subjective: what one assessor could mark as "correct", another could mark as "wrong". He did not believe the assessment process allowed him to fully bring out his abilities. He suggested that an appraisal within six months of starting work would be a better option. Dr Prasad agreed that he needed supervision but not 'close' supervision. He did not object to having an educational supervisor and preferred a mentor to being closely supervised. Dr Prasad addressed the assessors' recommendation that he only work as a salaried GP. He told the Tribunal this was too restrictive as there was a tendency for employers to not employ salaried GPs. Dr Prasad reminded the Tribunal of the hundreds of hours of learning that had gone into his appraisal, and had included attending clinical seminars and meetings. He also said that he was open to further learning and training.

Submissions

On behalf of the GMC

70. On behalf of the GMC, Ms McNeill, Counsel, first referred the Tribunal to paragraphs 10, 14, 17 and 20 of the Sanctions Guidance (November 2020) ('the SG'), which address the role of a doctor, the reasons why sanctions are imposed, maintaining public confidence in the profession, and the principle of proportionality. Ms McNeill also reminded the Tribunal it would need to consider any aggravating and mitigating factors in this case.

71. Ms McNeill then drew the Tribunal's attention to paragraph 163 of the SG which states:

163 *It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.*

72. Ms McNeill submitted that the most appropriate sanction in this case was one of conditional registration for three years, with conditions to match the current conditions in place on Dr Prasad's registration. This lengthier period of conditions would allow sufficient time for Dr Prasad to gain new employment, which was the route to remedying the deficiencies in his practise. Conditional registration over a three year period would also assist Dr Prasad with the timing of any performance assessment for a review hearing. It would remove the disadvantage of Dr Prasad having to obtain new employment and immediately begin to prepare for a performance assessment and a review hearing in 12-18 months. Ms McNeill acknowledged that this might be particularly burdensome given that Dr Prasad is a self-represented doctor.

73. Ms McNeill submitted that a performance assessment was the only measure of whether Dr Prasad's skills were deficient or not. She submitted that a performance assessment would only be useful if Dr Prasad had been employed for a period of time. A performance assessment was necessary in light of the findings of this and previous tribunals, and was appropriate so that any reviewing Tribunal could satisfy itself of the steps Dr Prasad has taken to remedy his performance shortfalls and address the issue of unwarranted risk to patient safety. During the lengthier sanction period, Dr Prasad would be able to find employment, gather evidence that his skills were sufficiently remediated and gain further experience.

74. Ms McNeill accepted that while there may be a punitive element in imposing the proposed sanction, this did not override the need and desire to protect the public and, in particular, the patients, coming into contact with Dr Prasad.

75. Ms McNeill submitted that the GMC recognised the further development of Dr Prasad's insight since the performance assessment and that he has worked on his skills, remediating to a meaningful extent. A further period of close supervision for a limited period would be appropriate and assist Dr Prasad in working towards a performance assessment. If the Tribunal were satisfied that Dr Prasad would comply with conditions, there was the potential for him to respond positively and to show evidence of compliance and further development to a reviewing Tribunal.

76. Ms McNeill, in summary, submitted that in all the circumstances the appropriate sanction in this case was one of a lengthy period of conditional registration in order for Dr Prasad to further develop and remediate and gain further insight.

Dr Prasad

77. Dr Prasad submitted that taking no action in this case was not appropriate and referred to the other sanctions available to the Tribunal. He told the Tribunal that while a sanction of suspension would be wrong, it would be no different to his current situation.

78. The rest of Dr Prasad's submission highlighted areas he had covered in his oral evidence. He submitted that certain aspects of his current conditional registration were too restrictive and were, in his view, a reason why he had been unable to find a job. He asked the Tribunal to look at the wording of certain conditions in order that he might find employment.

The Relevant Legal Principles

79. The Tribunal's decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgment. In reaching its decision the Tribunal should take into account the submissions from both parties in conjunction with the SG and the statutory overarching objective: protecting and promoting the health, safety and well-being of the public, promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct.

80. In order to ensure fairness, the Tribunal must identify, consider and balance any mitigating and aggravating factors in this case.

81. In making its determination the Tribunal should consider the least restrictive sanction first, before moving on to consider the other available sanctions in ascending order of severity. The Tribunal should note that the main purpose of imposing a sanction is to protect the public. Its purpose is not to punish, although it may have a punitive effect. The Tribunal should also consider proportionality by weighing the public interest against the interests of the doctor.

82. The Tribunal will consider remediation which the SG says is where a doctor addresses concerns about their knowledge, skills, conduct or behaviour. The Tribunal will also consider the doctor's insight into the concerns.

The Tribunal's Determination

83. Before considering what action, if any, to take in respect of Dr Prasad's registration, the Tribunal considered the aggravating and mitigating factors in this case.

Aggravating Factors

84. The Tribunal was unable to identify any current aggravating factors

Mitigating Factors

85. The Tribunal identified the following mitigating factors:

- Dr Prasad's developing level of insight and understanding of the deficiencies in his performance
- Dr Prasad has addressed the concerns of the GMC through his 2023-2024 Appraisal and through his CPD;
- Dr Prasad has engaged fully with this process.

No action

86. In reaching its decision as to the appropriate sanction, if any, to impose in Dr Prasad's case, the Tribunal first considered whether to conclude the case by taking no action. Taking no action is only considered appropriate where there are exceptional reasons for doing so and the Tribunal concluded that there were no exceptional circumstances in this case. The Tribunal therefore determined that taking no action would be inappropriate.

Conditions

87. When considering whether a further period of conditional registration would be the appropriate and proportionate sanction in this case, the Tribunal took into account paragraphs 80, 81(b) and (c), 82, 84(a)(b) and (c) and 85 of the SG:

80 *In many cases, the purpose of conditions is to help the doctor to deal with ... and/or remedy any deficiencies in their practice ... while protecting the public. In such circumstances, conditions might include requirements to work under supervision.*

81 *Conditions might be most appropriate in cases:*

a ...

b *involving issues around the doctor's performance*

c *where there is evidence of shortcomings in a specific area or areas of the doctor's practice*

d ...

82 *Conditions are likely to be workable where:*

a *the doctor has insight*

b *a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*

c *the tribunal is satisfied the doctor will comply with them*

d *the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.*

84 *Depending on the type of case (eg health, language, performance or misconduct), some or all of the following factors being present (this list is not exhaustive) would indicate that conditions may be appropriate:*

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

b *identifiable areas of their practice are in need of assessment or retraining*

c *willing to respond positively to retraining, with evidence that they are committed to keeping their knowledge and skills up to date throughout their working life, improving the quality of their work and promoting patient safety*

d and e ...

85 Conditions should be appropriate, proportionate, workable and measurable.

88. The Tribunal took into account Dr Prasad's further insight into the concerns raised in relation to his performance. It had regard to how much work he had undertaken to remedy his deficiencies and to the extent that was possible given that he was not in employment and was therefore not in clinical practice or seeing patients. It was clear from Dr Prasad's 2023-2024 Appraisal and PDP that he was committed to addressing the highlighted deficiencies and had a clear plan as to how he would do that.

89. The Tribunal noted Dr Prasad's comments on the restrictions the current conditions placed on him insofar as gaining employment was concerned. It agreed with him that the performance assessors' recommendation that Dr Prasad only be employed as a salaried GP was potentially restrictive.

90. The Tribunal considered that Dr Prasad's understanding of his current restrictions may be incomplete. For example, the current condition relating to 'close supervision' applied to the first phase of new employment for no less than three months but it did not necessarily apply for the duration of the order of conditional registration. If Dr Prasad was doing well in his job, close supervision would not need to be applied after this initial period. Further, 'close supervision' does not require the supervisor to be present in the same room as Dr Prasad at all times as he suggested in his evidence.

91. The Tribunal had regard to the fact that Dr Prasad has not practised clinically for some time. It considered Dr Prasad's feelings of injustice and his suggestions that formal monitoring could be substituted by a "lighter touch" regime. He suggested having a mentor rather than a clinical supervisor, and substituting appraisals for further performance assessments.

92. The Tribunal reminded itself of the statutory overarching objective in relation to public safety and public confidence in the profession. It was of the view that Dr Prasad's suggestions were not sufficient to achieve the statutory overarching objective. As such it considered that they were not reasonable because they would not provide the level of reassurance and protection required. A clinical supervisor has a different function to a mentor and a performance assessment is an important way to assess Dr Prasad's fitness to return safely to clinical practice without restriction.

93. Taking into account the paragraphs of the SG as set out above, the Tribunal was satisfied that Dr Prasad was making good progress towards full insight and complete remediation. It concluded that a further period of conditional registration was the appropriate and proportionate sanction in this case. It was of the view that imposing a period of suspension would be disproportionate and unnecessarily punitive.

94. The Tribunal considered that a revised set of conditions would assist Dr Prasad to find employment and continue his remediation in a stable, structured and safe environment. Given Dr Prasad's developing insight and pro-active approach to further learning and training, the Tribunal did not consider it necessary to require him to have a mentor as a formal condition of his registration. The Tribunal noted Dr Prasad's constructive relationship with his mentor to date. Nothing in this determination is intended to discourage him from continuing this relationship.

95. The following conditions are not confidential and will be published:

1. He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:
 - a. the details of his current post, including:
 - i. his job title
 - ii. his job location
 - iii. his responsible officer (or their nominated deputy)
 - b. the contact details of his employer and any contracting body, including his direct line manager
 - c. any organisation where he has practising privileges and/or admitting rights
 - d. any training programmes he is in
 - e. of the organisation on whose medical performers list he is included
 - f. of the contact details of any locum agency or out of hours service he is registered with.
2. He must personally ensure the GMC is notified:
 - a. of any post he accepts, before starting it
 - b. that all relevant people have been notified of his conditions, in accordance with condition 13
 - c. if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings

- d. if any of his posts, practising privileges or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination
 - e. if he applies for a post outside the UK.
3. He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.
4.
 - a. He must have a workplace reporter appointed by his responsible officer (or their nominated deputy)
 - b. He must not work until:
 - i. his responsible officer (or their nominated deputy) has appointed his workplace reporter
 - ii. he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.
5.
 - a. He must design a personal development plan (PDP), with specific aims to address the deficiencies in the following areas of his practice:
 - Maintaining Professional Performance
 - Assessment of Patients' Condition
 - Clinical Management
 - Relationships with Patients
 - b. His PDP must be approved by his responsible officer (or their nominated deputy)
 - c. He must give the GMC a copy of his approved PDP within three months of these substantive conditions becoming effective.
 - d. He must give the GMC a copy of his approved PDP on request.
 - e. He must meet with his responsible officer (or their nominated deputy), as required, to discuss his achievements against the aims of his PDP.
6.
 - a. He must have an educational supervisor appointed by his responsible officer (or their nominated deputy)
 - b. He must not work until:
 - i. his responsible officer (or their nominated deputy) has appointed his educational supervisor

Record of Determinations – Medical Practitioners Tribunal

- ii he has personally ensured that the GMC has been notified of the name and contact details of his educational supervisor.
- 7. He must undertake an assessment of his performance, if requested by the GMC.
- 8. He must get the approval of the GMC before working in a non-NHS post or setting.
- 9. He must only work in a group practice setting where there is a minimum of two GP partners or employed GPs (excluding himself). The GPs must be partners or permanently employed GPs who are on the GP register (this excludes locum staff).
- 10. a He must get the approval of his responsible officer (or their nominated deputy) and the GMC Adviser, before working as:
 - i a locum / in a fixed term contract
 - ii out-of-hours
 - iii on-call.b He must not work until:
 - i his responsible officer (or their nominated deputy) and the GMC Adviser has confirmed approval
 - ii he has personally ensured that the GMC has been notified of the approval of his responsible officer (or their nominated deputy) and the GMC Adviser.
- 11. a He must be subject to '*close supervision*' for a period of not less than three months from when he starts work and then to '*supervision*' for the remainder of the order, in all of his posts by a clinical supervisor, as defined in the *Glossary for undertakings and conditions*. His clinical supervisor must be approved by his responsible officer (or their nominated deputy) and must give written permission for the transition from '*close supervision*' to '*supervision*'.
 - b He must not work until:
 - i. his responsible officer (or their nominated deputy) has appointed his clinical supervisor and approved his supervision arrangements
 - ii. he has personally ensured that the GMC has been notified of the name and contact details of his clinical supervisor and his supervision arrangements.
- 12. a He must get the approval of his GMC Adviser before accepting any post.

- b He must keep his professional commitments under review and limit his work if his GMC Adviser tells him to.
 - c He must stop work immediately if his GMC Adviser tells him to and must get the approval of his GMC Adviser before returning to work.
13. He must personally ensure the following persons are notified of the conditions listed at 1 to 12:
- a his responsible officer (or their nominated deputy)
 - b the responsible officer of the following organisations:
 - i his place(s) of work, and any prospective place of work (at the time of application)
 - ii all his contracting bodies and any prospective contracting body (prior to entering a contract)
 - iii any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)
 - iv any locum agency or out of hours service he is registered with.
 - v If any of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify this person, he must contact the GMC for advice before working for that organisation.
 - c the responsible officer for the medical performers list on which he is included or seeking inclusion (at the time of application).

Length of conditional registration

96. With regards to the length of conditional registration, the Tribunal had regard to Ms McNeill's submission that a longer period would allow Dr Prasad enough time to gain the skills and experience necessary to perform well in a further performance assessment. The Tribunal noted that Dr Prasad is keen to start work and there were practical considerations to bear in mind. He would be in a period of close supervision initially and once this was completed he would need to perform in a sufficiently broad role to allow him to gain experience in other areas.

97. The Tribunal was of the view that it was not in Dr Prasad's best interests that he start preparing for a performance assessment within a year since it was likely he would be unable to provide evidence to demonstrate the necessary knowledge and skills within such a short time. The Tribunal concluded that a period of 24 months conditional registration would allow

Dr Prasad to find employment, gain experience in other areas and prepare himself to perform successfully in a future performance assessment.

Review

98. The Tribunal determined to direct a review of Dr Prasad's case. A review hearing will convene shortly before the end of the period of conditional registration. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Prasad to demonstrate how he has remediated his deficient professional performance. It therefore may assist the reviewing Tribunal if Dr Prasad provided:

- A copy of his PDP and evidence of his progress in working towards it;
- A report from his educational supervisor;
- A report from his clinical supervisor;
- Report(s) from his workplace reporter(s);
- Dr Prasad will also be able to provide any other information that he considers will assist.

99. The Tribunal has directed to impose conditions on Dr Prasad's registration for a period of 24 months. The MPTS will send Dr Prasad a letter informing him of his right of appeal and when the direction and the new sanction will come into effect. The current order of conditions will remain in place during the appeal period.

ANNEX A – 23/11/2023

Extension of current sanction

100. Due to there being insufficient time for the Tribunal to conclude Dr Prasad’s case, the Tribunal determined that it was necessary to adjourn the hearing under Rule 29(2) of the Rules.

101. The Tribunal noted that the current conditions on Dr Prasad’s registration are due to expire on 10 December 2023. It invited submissions from parties as to whether it is necessary to extend the current order of conditions in accordance with section 35D(12)(c) of the Medical Act 1983, bearing in mind that the earliest date for the reconvened hearing would be 03 June 2024.

Submissions

102. On behalf of the GMC, Mr Goode submitted that the current set of conditions be extended to cover the period until the hearing reconvenes. Mr Goode further submitted that it would be appropriate to extend the existing conditions in the same form rather than varying them in any way.

103. Representing himself, Dr Prasad submitted that he was not happy with the conditions as he is unable to find a job. He asked the Tribunal to opt for “*milder*” less restrictive conditions. He stated that he had no objection to the current order of conditions being extended until the hearing concluded.

The Tribunal’s Determination

104. The Tribunal acknowledged Dr Prasad’s request that the conditions be varied. As it had not yet made any decision on the question of impairment, the Tribunal could not consider any amendments to the existing order of conditions in accordance with section 35D(12)(c) of the Medical Act 1983.

105. The Tribunal determined to extend the current order of conditions for a period of six months, by exercising its powers under Section 35D(5)(a) of the Medical Act 1983. It determined that such an extension was necessary and proportionate in terms of protecting the public and patients, given the conclusions of all previous Tribunals.

106. The hearing is adjourned part-heard until 03 June 2024.

ANNEX B – 05/06/2024

Application to disregard the evidence of Dr A

107. On day five of the hearing, 3 June 2024, Dr Prasad made an application that the Tribunal disregard the evidence of PAT Team Leader, Dr A.

108. Dr Prasad's basis for making the application was that Dr A had consulted the Internet during his oral evidence on 21 November 2023, without seeking permission from the Tribunal or anyone else.

Submissions

109. Dr Prasad submitted that by consulting the Internet without permission while under affirmation/oath, Dr A broke his oath and therefore his evidence should be disregarded in its entirety to preserve the sanctity and integrity of the MPTS hearing process.

110. Ms McNeill, Counsel, on behalf of the GMC, first highlighted the lateness of the application and that Dr Prasad has had the time from when the hearing adjourned on 23 November 2023 to submit it. Ms McNeill added that this was not the first time information had been provided by Dr Prasad very late in the day.

111. Ms McNeill submitted that when cross-examining Dr B on the morning of 3 June 2024, Dr Prasad had asked that Dr B consider material not before the Tribunal, effectively asking him to look on the Internet or elsewhere for this information. Ms McNeill submitted that if Dr A had been invited to look for information not available to the Tribunal to answer questions put to him by Dr Prasad, he could not be criticized for seeking to assist Dr Prasad and the Tribunal by providing answers.

112. Ms McNeill submitted there was no merit in the application and even if there were, it was inconceivable that the whole of Dr A's evidence should be excluded. Ms McNeill suggested that if there was some reservation over any aspect of Dr A's evidence then only that part of the evidence should be excluded. However, the GMC's position was that the application was ill-founded, had no merit and, therefore, should be rejected.

The Tribunal's Determination

113. The Tribunal acknowledged that during his oral evidence Dr A had consulted some guidelines by referring to the Internet without explicitly seeking the permission of the Tribunal to do so. It then considered whether, in light of that conduct, it should disregard all or part of his evidence to preserve the sanctity and integrity of the Tribunal process.

114. The Tribunal took into consideration that Dr Prasad had, on more than one occasion, asked Dr A questions based on guidance which was not included in the documentary evidence before the Tribunal. Dr A had looked up the information online in order to answer the questions being put to him.

115. The Tribunal was of the view that Dr A was doing his best to assist both Dr Prasad and the Tribunal, and looking for the information online was not unreasonable in that context. Dr A did not change his evidence or opinion as a result of anything he read online, therefore the Tribunal did not believe the credibility of his oral evidence or his assessment of Dr Prasad were affected. The Tribunal did not think it proportionate to disregard the whole of his evidence when Dr A was trying to assist Dr Prasad by answering the questions put to him. While he had consulted the Internet in order to do so and had not sought permission at the outset, he had clarified what he was doing and identified the information he accessed online. In addition Dr A had apologised to the Tribunal for his failure to appreciate that he should have sought permission from the Tribunal before seeking to access guidance online.

116. In these circumstances the Tribunal was satisfied that all of Dr A's evidence should remain on record and the Tribunal would give it such weight as it considered appropriate in considering the questions for determination on this Review.

117. Accordingly, the Tribunal determined to refuse Dr Prasad's application.